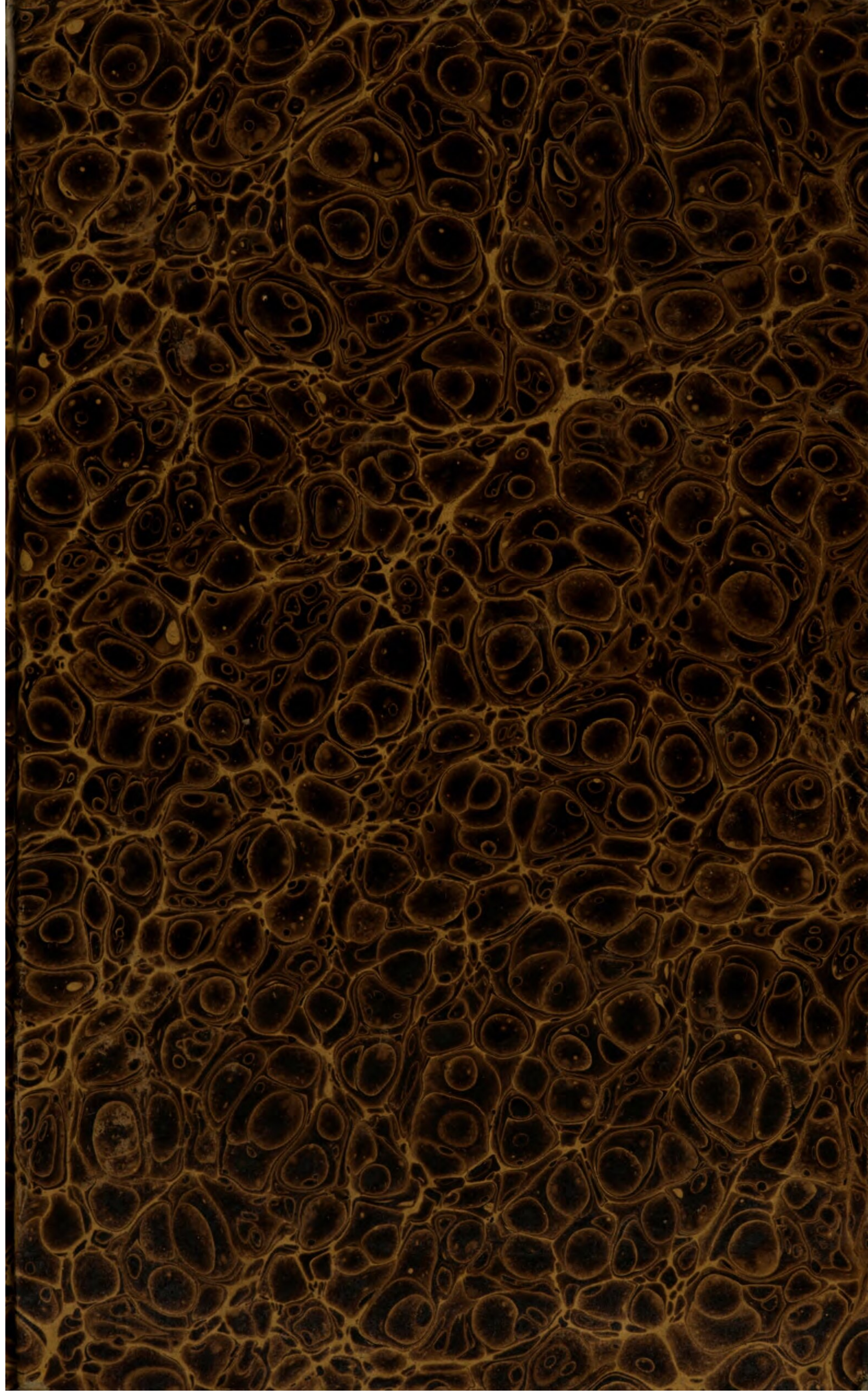




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IN 1688.

COMPRISING

A VIEW OF THE REIGN OF JAMES II.

FROM HIS ACCESSION, TO THE ENTERPRISE OF THE PRINCE OF ORANGE,

BY THE LATE

RIGHT HON. SIR JAMES MACKINTOSH;

AND COMPLETED, TO THE SETTLEMENT OF THE CROWN.

TO WHICH IS PREFIXED,

**A NOTICE OF THE LIFE, WRITINGS, AND SPEECHES OF
SIR JAMES MACKINTOSH.**

VOL. I.

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ADVERTISEMENT.

SIR JAMES MACKINTOSH long meditated a History of England, beginning with the Revolution of 1688. That portion of it which he executed is given in the present Volume. He took up the History at the Ascension of James II., referred to the chief incidents in the reign of Charles II., developed the causes, remote and proximate, of the approaching Revolution, and broke off on the eve of that collision between James and the Prince of Orange which transferred the Crown from the King to the Prince.

It remained only to narrate the catastrophe.

Under these circumstances, it has been thought expedient to continue the Narrative to the Settlement of the Crown. The advantages of access to the original and invaluable manuscript authorities used by Sir James, rendered this course still more advisable. Some interesting extracts from them will be found in the Appendix.

In the Continuation, it will be observed that the glimpses of opinion on the character of the Revolution, and on the characters and motives of the chief persons who figured in it, do not always agree with the views of Sir James Mackintosh. But it should not be forgotten, that Sir James was avowedly and emphatically a Whig of the Revolution,—and that, since the agitation of Religious Liberty and Parliamentary Reform became a national movement, the great transaction of 1688

has been more dispassionately, more correctly, and less highly estimated. The writer of the Continuation believed himself unbiassed by any predilection for either Whigs or Tories, and not only borne out but bound by the facts. He felt, in fine, that his first duty to the reader and to himself was good faith.

The latter period of the history was one essentially of action and events. Hence, and from the necessity of taking up the career of the Prince of Orange where it was dropped by Sir James, the Continuation has swelled to an unexpected compass.

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NOTICE
OF
THE LIFE, WRITINGS, AND SPEECHES
OF
SIR JAMES MACKINTOSH.

SIR JAMES MACKINTOSH will be remembered as a man of letters and member of the House of Commons. He cultivated literature without incidents or disputes, and spoke in Parliament without participation in the counsels, either of party or of the government. The following notice, therefore, contains little that is merely personal.* It will but present a passing and imperfect view of the exercise of his faculties, and development of his principles, in his writings and speeches. Some few particulars, however, of his private and early life may be given. He was born on the 24th of October, 1765, in the county of Inverness. It appears, from the following passage in one of his speeches, referring to a grant from the civil list by the late king for the erection of a monument at Rome to Cardinal York, that his family were Jacobites, and espoused the cause of the Pretender:—

“I trust that I shall not be thought unfeeling, if I confess, that I cannot look in the same light on a sum of public money, employed in funeral honours to the last prince of a royal family, who were declared by our ancestors unfit to reign over this kingdom. That they should be treated as princes, in the relief of their distress—that they should be treated as princes, even to soothe their feelings, in

* It is right to state that the family of Sir James Mackintosh have had no part in the preparation of this notice.

the courtesies of society—I most cheerfully allow. Neither the place of my birth, nor the actions and sufferings of those from whom I have descended, dispose me to consider them with sternness; but, I own, that to pay funeral honours to them in the name of the country, or its sovereign, appears to me (to speak guardedly) a very ambiguous and questionable act.”

His father, a military officer of social habits and careless temper, had already encumbered and wasted the family patrimony, and was, for the most part, absent from Scotland with his regiment on foreign service. Fortunately, neither the absence nor the imprudence of Captain Mackintosh interfered with the education of his son. Sir James received his first instruction from a female relative, who was conversant with books, and to whose lessons he ever after acknowledged himself under lasting obligations. A bequest to him, whilst yet a child, by an uncle, supplied the means of continuing and completing his studies. He was placed, first at the school of Fortrose, in Ross-shire; next at King's College, Aberdeen; and gave, at both, decisive promise of his future eminence. His friends selected for him the profession of a physician. He accordingly became, about the age of twenty, a medical student at the University of Edinburgh. Here the study of medicine is said to have occupied the lesser, whilst literature, philosophy, and dissipation, engaged the greater portion of his time. One of the most fascinating and exciting objects of ambition, especially in youth, is oratory. Mackintosh distinguished himself as a speaker in two debating societies, the one limited to medical subjects, the other embracing a wider range in matters of taste and speculation. The ascendant of his talents was such, that it grew into a fashion among the students to copy him, even in the negligence of his dress. With his distaste for the study of medicine, he yet took the degree of doctor in 1787, and printed, according to immemorial usage on the occasion, a thesis in Latin. He took, for his subject, Muscular Action. The probationary thesis of Sir James, in the midst of his distractions, could not add much to physiological science. He is said to have distinguished himself in what the Scotch call Humanity whilst at the University of Aberdeen; and he loved to quote the Roman classics in his writings and speeches. Yet this composition of his youth, when he must have been most familiar with Latin writers, is no signal exception to the latinity of physicians. The dedication may be cited as a specimen the most favourable to the author, and most intelligible to the unprofessional reader.

AMICO SUO GULIELMO ALEXANDER, &c. &c. JACOBUS MACKINTOSH, S. P. D.

“Cum mihi dulce magis decorumque videatur, sancto amicitiae numini, quales amicum deceat* honores impendere, quam inanes Optimatum titulos inaniori laude conspurcare, ut huicce opusculo dignitatis aliquid conciliaretur, itemque ut servilioris obsequii crimen effugerem, illud tibi, AMICORUM AMICISSIME, nuncupandum existimavi. Mecum igitur hodie suavissime agitur, cum gratissimis gratissimae necessitudinis vocibus auscultare, unaque ingenuae ingenui animi superbiae non obsurdescere contingat; neque tibi injucundum fore arbitrarer, si dum multi, iique amore observantiaque dignissimi consuetudinem mecum nec declinant nec dedignantur, (mihi etenim in fatis fuit, ut nunquam non juvenus mea talibus amicis bearetur:) Te, hos inter, principem conjunctissimumque compellarem. Si quid igitur ex mentis meae industria fœtuve, nomini possem tuo laudis decorisve fœnerari, sive quodlibet tibi possem nuncupare opus, cujus olim memoria oblivione non obrueretur, tunc meam in te deficere voluntatem haudquaquam suspicareris. Quare mihi, credo, minime subirascaris, si inauguralibus hisce Academiæ nomen AMICI, præficere non reformidem. Atqui inania mihi hæc frivolaque, ut ut puerilia quandoque fastidienti, hoc saltem subridebit voluptatis, quod pectus mihi ILLORUM recordatione pertentabitur, quorum consentientibus studiorum rationibus inflammabar, quorum ex judiciis judicio meo lumen roburque accedebat, quorum labores horarum subsecivarum mutuis mutui oblectamentis condiebantur, quorum denique unanimia in te vota precesque mecum hic hodie concinunt conspirantque; neque hæc, si Diis placeat, sive materno sive novercali fortuna me lumine intueatur, ex ‘sanctis unquam mentis meae recessibus*’ exulabunt: quin crescentes crescentium, annorum curas sollicitudinesque permulcendo, ope, illaque haud illætabili, tristia senectutis tædia recreabunt, quod (sors etiamsi obtingat humilior nomenque sileatur), non una amicitiae lacryma amici cineribus parentaverit. Vale AMICE, amici valete.

“Dab. Edin. Prid. ante 1d. Septemb. A. 1787.”

There is, in this dedication, and in the note on Dr. Parr’s preface to Bellendenus, subjoined to it with more ambition than propriety, much pretension to idiom and conceit of scholarship,

* Neque hic a mente mea mens vel ipsius Verulamii abhorret. Vide de Augmentis Scientiarum, lib. i. p. 29.

* “Vide perelegantem in nuperam Bellendini operum edit. Lond. excusam Præfat.

“Atque hic mihi neminem, dummodo Attice Romanæque vel tantillum sapiat, succensurum crediderim, si quantum ex aureo hocce opusculo perlegendo voluptatis perceperim (ab illo etenim lectitando ‘aure’ adhuc ‘ferveo vaporata’) intempestive fortasse quamvis, attamen vel importunus profitear. Hocque mihi ideo antiquius visum est, quod amicum quem hic alloquor (ille etenim ab optimis nunquam, nunquam a sapientibus discrepuit), de republica, cum auctore gravi literatissimoque, idem semper velle, idem semper sentire, non ignorabam. Hujus equidem scriptoris Latinissimi, sive Procerum varias variarum indolum facies scite adumbrare; sive eosdem, prout debeatur meritis, vel infamiae notis inustos, vel immortalis condecoratos gloria posteritati tradere, famæ quasi largitoris jure, tam exulto limatoque ingenio, haud inique condonaveris. Ipsius enimvero nutui adeo advolant et famulantur, quæcunque habeat antiquitas leporum et venustatis, ut omnia e proprio penu deprompsisse potius, quam ‘ut alienum libasse,’ videatur. Verbo dicam—Romanæ hinc et inde Cecropiæque pullulantes elegantiae flosculos ita carpsit curiose, ut in sertum quasi germanum, maritalesque corollas sponte coalescerent. Sed quid ego hæc autem—mene Antalcideæ immemorem sententiæ,—
Τίς γὰρ αὐτὸν ᾤεσι;

with forced constructions, far-sought and ill-chosen expressions, and that sort of effort between obscurity and sense, from which it may be suspected that the writer derived his inspirations from the dictionary. The dedication to a familiar friend, rather than to a patron, contrary to usage, was independent; but the phrase “*laude conspurcare*” is not merely improper—it suggests a disgusting image. The first sentence of the thesis contains a glaring mistake of language. “*Auxiliantibus musculorum fibris omnia omnino vitæ munera defungi quotidiano usu commonemur.*” Deceived by the passive termination of the deponent verb *defungor*, he misuses it in a passive sense. His motto from Persius is very happily chosen,—

Latet arcanâ non enarrabile fibrâ.

Sir James Mackintosh has been described by others, and by himself, as indolent and dilatory at every period of his life. A curious instance of this disposition is related of him on the occasion of taking his degree. He not only put off the writing of his thesis to the last moment, but was an hour behind his time on the day of examination, and kept the academic senate waiting for him in full conclave. The latter instance, not so much of indolence as of gross negligence and bad taste on the part of a student, and of patient condescension on the part of the professors, is scarcely credible.

The bar is considered the proper sphere for a young man without fortune, who appears qualified to become a public speaker. Mackintosh signalled himself among the unfledged orators of the Medical and Speculative Societies, so called; and the profession of the law was recommended to him before he yet left Edinburgh. He, however, came to England with the intention to practise physic, and with recommendations to Dr. Fraser, a physician at Bath. Young, careless, and dissipated, he had squandered his money on becoming his own master; and before he left the University of Edinburgh, his uncle's legacy was exhausted. His relatives, who now supplied him, most probably dictated the continued pursuit of physic; and, on the advice of Dr. Fraser, he had thoughts of commencing practice at Bath. In 1788, however, he came to London, and resided in the house of a wine-merchant, also named Fraser, in Clipstone Street. This residence proved one of the fortunate circumstances of his life. It led to his acquaintance with Miss

Stuart, whom he married in January, 1789 ; so privately, that the pew-openers of Mary-le-bone Church were the witnesses. Mackintosh, with this seeming romance, was captivated wholly by the good sense and amiable character of this excellent woman. It will be found that she exercised the happiest influence on the conduct of his life and employment of his time. But the friends of both parties were equally incensed. The brothers of the lady were dissatisfied at her marriage with a young man who had neither fortune nor industry, and of whose capacity they had yet no idea. He had, indeed, on his arrival in London, published a pamphlet on the Regency question then pending, in support of the claims of the Prince of Wales and the views of the Whigs. But this first essay in politics failed to attract the notice either of the party or of the public. His family, to indulge their anger, or punish his imprudence, now withheld their supplies ; and his situation would have been one of the most embarrassing, if his wife had not been possessed of some funds. This enabled and determined them to visit the Netherlands in the spring of 1789.

The Revolution now agitated France and Europe. Its principles, its passions, and its visions, were nowhere more deeply felt than in Brabant. Mackintosh continued in the Netherlands, residing chiefly at Brussels, until the end of the year. Arrived in London at the commencement of 1790, he found himself without money or means of living. But if his residence abroad exhausted his finances, it furnished him in return with a stock of information and enthusiasm, respecting foreign politics and the Revolution, which he was soon enabled to turn to account. Mr. Charles Stuart, the brother of his wife, was a contributor to the fugitive literature of the theatres and public press of London. Mackintosh, by his advice, aspired to become a journalist, and was introduced by him to that multifarious editor, John Bell, then editor and proprietor of a newspaper called *The Oracle*. The authorship of the defunct pamphlet, the advantages of having passed the preceding year on the Continent, and the title of Dr. Mackintosh, then borne by Sir James, were imposing recommendations in the eyes of the proprietor of the journal, and he was soon installed its sole organ in the department of foreign politics. It was agreed between the parties that the amount of remuneration should be regulated by admeasurement in the printed columns of *The Oracle*. Sir James, with the vigour and freshness of his youth, his opinions,

and his feelings, and inspired, moreover, by that which the Roman satirist ranked with Parnassus and the Pierian spring,* was declared by the proprietor ruinously prolific. One week his labours measured ten pounds sterling. "No paper," said Mr. Bell, with frank simplicity, "can stand this." An average was struck, and Sir James wrote at a fixed price.

Few persons think of asking others or themselves who is the writer of what they read in a newspaper;—either because the matter is so strictly ephemeral, and each daily impression obliterates that of the preceding day, or because the constant readers personify the journal itself by clothing its name with the attributes of authorship. Mackintosh, however, wrote so ably, that whilst the mass of constant readers quoted *The Oracle* with increased deference, the better informed and more inquisitive asked after the writer. He became acquainted, among others, with Felix Macarthy, an Irish compound of rake, gladiator, writer, and politician; the companion of Sheridan in his orgies and election scenes, and the humble follower of Lord Moira. Felix, as he appears to have been habitually called, both by strangers and his friends, made Mackintosh acquainted with the unfortunate Gerald, by whom he was thus early introduced to Doctor Parr. The brothers of Mrs. Mackintosh were now not only reconciled to the marriage, but attached to him personally, and proud of him. They advised him to attempt something more worthy of him than the diurnal supply of political vaticination, through the medium of *The Oracle*. Thus encouraged, he attended a public meeting of the county of Middlesex, and made a speech which was received with great applause. His friend Felix was present, and sounded the praises of the speaker and the speech among his numerous friends, whose number and constancy he was accustomed to attest by a punning quotation:—

Donec eris Felix multos numerabis amicos.

The career of Mackintosh in London was now interrupted for a moment by the death of his father. He found it necessary to visit Scotland. Mrs. Mackintosh, with an infant of a few weeks old,

* *Nec labra fonte prolui caballino,
Nec in bicipiti somniâsse Parnasso
Memini, etc.*

*Magister artis ingenique largitor,
Venter, etc.*

PERSIUS.

accompanied him. So fond was he of her person and society, that the shortest separation from her was painful, and a long absence intolerable to him. Having sold that part of the family property which came into his hands on his father's death, he returned to London with a few hundred pounds, took a house at Ealing, and undertook the hardy task of answering Burke's "Reflections on the French Revolution." He had a host of competitors already in the field. There were not wanting prudent counsellors who would divert him from a beaten subject,—upon which, they said, nothing new could be advanced,—and dissuade him from a vain trial where he had so many rivals to contend with. A subject is exhausted to those only whose barren or exhausted mediocrity can produce nothing new,—and there is, according to Swift, in the greatest crowd, room enough for him who can reach it, above their heads. Mackintosh proved both these truths, by persisting in his purpose. His talents, however, were already known and estimated. Paine, whilst writing his "Rights of Man," heard that Mackintosh also was employed in answering Burke. "Tell your friend," said he to an acquaintance of Sir James, "that he will come too late, unless he hastens; for, after the appearance of my reply, nothing more will remain to be said." It would seem that Paine instinctively knew the only rival whose work should divide opinion with him.

The *Vindiciæ Gallicæ* appeared among the latest of the replies to Burke. The work occupied the author several months. From a pamphlet, which he designed it should be, it came out a volume of 380 pages, in April, 1791. The period of composing it was, probably, the happiest of his life. The more generous principles and brighter views of human nature, society, and government,—of his own ambition and hopes,—which then engaged his faculties and exalted his imagination, were assuredly not compensated to him by the commendations which he subsequently obtained for practical wisdom, matured prudence, and those other hackneyed phrases which are doubtless often justly bestowed, but which are still oftener but masks for selfish calculation and grovelling ambition. His domestic life was, at the same time, the happiest that can be conceived. He had indulged, by his own avowal, in the vices of dissipation up to the period of his marriage; but now his life was passed in the solitude of his house at Ealing, without seeking or desiring any other enjoyment than the composition of his work, and the society of his

wife, to whom, by way of recreation in the evening, he read what he had written during the day. The *Vindiciæ Gallicæ*, accordingly, though not the most profound or learned of his productions, was never after equalled by him in vigour and fervour of thought, style, and dialectics. He sold the copyright for 30*l*. Published in April, it reached a third edition in August; and the publisher had the liberality to give the author more than triple the stipulated sum.

Mackintosh had been already introduced by his brother-in-law to Sheridan, who was then what may be called manager of the press to the Whig party. Sheridan said that he supposed a hundred or two from the fund at Brookes's would not come amiss to the author of the *Vindiciæ*. The suggestion was no doubt readily assented to, but went no farther. The fund was at the time impounded, in consequence of the Whig schism on the subject of the French Revolution.

The author of the *Vindiciæ Gallicæ* started at once into celebrity. His acquaintance was sought by the chief Whigs,—by Fox, Grey, Lauderdale, Erskine, Whitbread; and he was invited to the Duchess of Gordon's rout. He was not only courted, but defamed; there could, therefore, be no doubt of the reality of his success.

"The vulgar clamour," says he, in an advertisement to the third edition, "which has been raised with such malignant art against the friends of freedom, as the apostles of turbulence and sedition, has not even spared the obscurity of my name. To strangers I can only vindicate myself by defying the authors of such clamours to discover one passage in this volume not in the highest degree favourable to peace and stable government. Those to whom I am known would, I believe, be slow to impute any sentiments of violence to a temper which the partiality of my friends must confess to be indolent, and the hostility of enemies will not deny to be mild."

Who does not know Burke's chivalrous and celebrated allusion to the Queen of France, in a passage of which the taste may be criticised, but of which the eloquence will never be unfelt by those who can appreciate imagination and sentiment? The following may be called an antagonist passage by Mackintosh in reply:—

"In the eye of Mr. Burke, these crimes and excesses assume an aspect far more important than can be communicated to them by their own insulated guilt. They form, in his opinion, the crisis of a revolution, far more important than any change of government; a revolution, in which the sentiments and opinions that have formed the manners of the European nations are to perish. 'The age of chivalry is gone, and the glory of Europe extinguished for ever.' He follows this exclamation by an eloquent eulogium on chivalry, and by gloomy predictions of the future state of Europe, when the nation that has been so long accustomed to give her the tone in arts and manners is thus debased and corrupted. A caviller

might remark, that ages much more near the meridian fervour of chivalry than ours have witnessed a treatment of queens as little gallant and generous as that of the Parisian mob. He might remind Mr. Burke, that, in the age and country of Sir Philip Sidney, a Queen of France, whom no blindness to accomplishment, no malignity of detraction, could reduce to the level of Maria Antoinetta, was, by 'a nation of men of honour and cavaliers,' permitted to languish in captivity and expire on a scaffold; and, he might add, that the manners of a country are more surely indicated by the systematic cruelty of a sovereign, than by the licentious frenzy of a mob."

This and another passage were made the subject of much obloquy by his opponents, and disapproved, it would appear, by some of his friends. In the advertisement before cited, he says,—

"I have been accused, by valuable friends, of treating with ungenerous levity the misfortunes of the royal family of France. They will not, however, suppose me capable of deliberately violating the sacredness of misery in a palace or a cottage; and I sincerely lament that I should have been betrayed into expressions which admitted that construction."

The reign of Louis XIV., and the successive counsels which swayed France in the two feeble reigns which intervene between that celebrated age and the Revolution, are sketched by a few vigorous touches at the opening of the work:—

"The intrusion of any popular voice was not likely to be tolerated in the reign of Louis XIV.,—a reign which has been so often celebrated as the zenith of warlike and literary splendour, but which has always appeared to me to be the consummation of whatever is afflicting and degrading in the history of the human race. Talent seemed, in that reign, robbed of the conscious elevation, of the erect and manly port, which is its noblest associate and its surest indication. The mild purity of Fénelon, the lofty spirit of Bossuet, the masculine mind of Boileau, the sublime fervour of Corneille, were confounded by the contagion of ignominious and indiscriminate servility. It seemed as if the 'representative majesty' of the genius and intellect of man were prostrated before the shrine of a sanguinary and dissolute tyrant, who practised the corruption of courts without their mildness, and incurred the guilt of wars without their glory. His highest praise is to have supported the stage trick of royalty with effect; and it is surely difficult to conceive any character more odious and despicable, than that of a puny libertine, who, under the frown of a strumpet, or a monk, issues the mandate that is to murder virtuous citizens, to desolate happy and peaceful hamlets, to wring agonising tears from widows and orphans. Heroism has a splendour that almost atones for its excesses; but what shall we think of him, who, from the luxurious and dastardly security in which he wallows at Versailles, issues with calm and cruel apathy his order to butcher the Protestants of Languedoc, or to lay in ashes the villages of the Palatinate? On the recollection of such scenes, as a scholar, I blush for the prostitution of letters; as a man, I blush for the patience of humanity.

"But the despotism of this reign was pregnant with the great events which have signalised our age. It fostered that literature which was one day destined to destroy it. Its profligate conquests have eventually proved the acquisitions of humanity; and the usurpations of Louis XIV. have served only to add a larger portion to the great

body of freemen. The spirit of its policy was inherited by the succeeding reign. The rage of conquest, repressed for a while by the torpid despotism of Fleury, burst forth with renovated violence in the latter part of the reign of Louis XV. France, exhausted alike by the misfortunes of one war and the victories of another, groaned under a weight of impost and debt, which it was equally difficult to remedy or to endure. The profligate expedients were exhausted, by which successive ministers had attempted to avert the great crisis, in which the credit and power of the government must perish.

“ The wise and benevolent administration of M. Turgot, though long enough for his glory, was too short, and, perhaps, too *early*, for those salutary and grand reforms which his genius had conceived and his virtue would have effected. The aspect of purity and talent spread a natural alarm among the minions of a court, and they easily succeeded in the expulsion of such rare and obnoxious intruders.

“ The magnificent ambition of M. de Vergennes; the brilliant, profuse, and rapacious career of M. de Calonne; the feeble and irresolute violence of M. Brienne; all contributed their share to swell this financial embarrassment. The *deficit*, or the inferiority of the revenue to the expenditure, at length rose to the enormous sum of 115 millions of livres, or about 4,750,000*l.* annually. This was a disproportion between income and expense with which no government, and no individual, could long continue to exist.

“ In this exigency, there was no expedient left but to guarantee the ruined credit of bankrupt despotism by the sanction of the national voice. The States-general were a dangerous mode of collecting it. Recourse was therefore had to the assembly of the *Notables*, a mode well known in the history of France, in which the King summoned a number of individuals, selected at *his* discretion from the mass, to advise him in great emergencies. They were little better than a popular Privy Council. They were neither recognised nor protected by law. Their precarious and subordinate existence hung on the rod of despotism.

“ They were called together by M. Calonne, who has now the inconsistent arrogance to boast of the schemes which he laid before them, as the model of the assembly whom he traduces. He proposed, it is true, the equalisation of impost, and the abolition of the pecuniary exemptions of the nobility and clergy; and the difference between his system, and that of the assembly, is only in what makes the sole distinction in human actions—*its end*. He would have destroyed the privileged orders, as obstacles to despotism. They have destroyed them, as derogations from freedom. The object of *his* plans was to facilitate *fiscal* oppression. The motive of *theirs* is to fortify general liberty. They have levelled all Frenchmen as men; he would have levelled them all as slaves.

“ The assembly of the *Notables*, however, soon gave a memorable proof, how dangerous are all public meetings of men, even without legal powers of control, to the permanence of despotism. They had been assembled by M. Calonne, to admire the plausibility and splendour of his speculations, and to veil the extent and atrocity of his rapine. But the fallacy of the one, and the profligacy of the other, were detected with equal ease. Illustrious and accomplished orators, who have since found a nobler sphere for their talents in a more free and powerful assembly, exposed this plunderer to the *Notables*. Detested by the nobles and clergy, of whose privileges he had suggested the abolition; undermined in the favour of the Queen, by his attack on one of her favourites (Breteuil); exposed to the fury of the people, and dreading the terrors of judicial prosecution; he speedily sought refuge in England, without the recollection of one virtue, or the applause of one party, to console his retreat.”

The French soldiers, by abandoning the court, and siding with the people in the crisis of the Revolution, decided the great struggle between privilege and democracy. Their conduct called forth execrations from one party, eulogies from the other, eloquence from both,—and remains one of the great lessons bequeathed by that awful epoch to nations and their governments. Stigmatised by Burke, they are thus defended by Mackintosh:—

“ These soldiers, whom posterity will celebrate for patriotic heroism, are stigmatised by Mr. Burke as ‘ base hireling deserters,’ who sold their king for an increase of pay. This position he everywhere asserts or insinuates, but nothing seems more false. Had the defection been confined to Paris, there might have been some speciousness in the accusation. The exchequer of a faction might have been equal to the corruption of the guards. The activity of intrigue might have seduced by promise the troops cantoned in the neighbourhood of the capital. But what policy or fortune could pervade by their agents or donatives an army of 150,000 men dispersed over so great a monarchy as France. The spirit of resistance to *uncivic* commands broke forth at once in every part of the empire. The garrisons of the cities of Rennes, Bordeaux, Lyons, and Grenoble refused, almost at the same moment, to resist the virtuous insurrection of their fellow-citizens. No largesses could have seduced, no intrigues could have reached, so vast and divided a body. Nothing but sympathy with the national spirit could have produced their noble disobedience. The remark of Mr. Hume is here most applicable, that what depends on a few may be often attributed to chance (*secret circumstances*), but that the action of great bodies must be ever ascribed to general causes. It was the apprehension of *Montesquieu*, that the spirit of increasing armies would terminate in converting Europe into an immense camp, in changing our artisans and cultivators into military savages, and reviving the age of Attila and Genghis. Events are our preceptors, and France has taught us that this evil contains in itself its own remedy and limit. A domestic army cannot be increased without increasing the number of its ties with the people, and of the channels by which popular sentiment may enter. Every man who is added to the army is a new link that unites it to the nation. If all citizens were compelled to become soldiers, all soldiers must of necessity adopt the feelings of citizens, and the despots cannot increase their army without admitting into it a greater number of men interested to destroy them. A small army may have sentiments different from the great body of the people, and no interest in common with them; but a numerous soldiery cannot. This is the barrier which nature has opposed to the increase of armies. They cannot be numerous enough to enslave the people, without becoming the people itself. The effects of this truth have been hitherto conspicuous only in the military defection of France, because the enlightened sense of general interest has been so much more diffused in that nation than in any other despotic monarchy of Europe. But they must be felt by all. An elaborate discipline may for a while in Germany debase and brutalise soldiers too much to receive any impressions from their fellow men;—artificial and local institutions are, however, too feeble to resist the energy of natural causes. The constitution of man survives the transient fashions of despotism, and the history of the next century will probably evince on how frail and tottering a basis the military tyrannies of Europe stand.”

The army having decided that there should be a revolution, the

Constituent Assembly determined its form and extent. Burke described this memorable assembly as the greatest architect of ruin which the world had ever seen. One of the most remarkable innovations of the Constituent Assembly was the abolition of feudal titles of nobility. The measure was literally improvised, and took Europe by surprise. Burke's illustration of Corinthian capitals is familiar to most readers. The following is Mackintosh's reply :—

“ Thus feeble are the objections against the authority of the assembly. We now resume the consideration of its exercise, and proceed to enquire whether they ought to have reformed or destroyed their government? The general question of innovation is an exhausted common-place, to which the genius of Mr. Burke has been able to add nothing but splendour of eloquence and felicity of illustration. It has long been so notoriously of this nature, that it is placed by Lord Bacon among the sportive contests which are to exercise rhetorical skill. No man will support the extreme on either side. Perpetual change and immutable establishment are equally indefensible. To descend, therefore, from these barren generalities to a more near view of the question, let us state it more precisely. Was the civil order in France corrigible, or was it necessary to destroy it? Not to mention the extirpation of the feudal system, and the abrogation of the civil and criminal code, we have first to consider the destruction of the three great corporations—of the Nobility, the Church, and the Parliament. These three aristocracies were the pillars which, in fact, formed the government of France. The question, then, of forming or destroying these bodies is fundamental. There is one general principle applicable to them all, adopted by the French legislators, *that the existence of orders is repugnant to the principles of the social union*. An order is a legal rank—a body of men combined and endowed with privileges by law. There are two kinds of inequality; the one personal—that of talent and virtue, the source of whatever is excellent and admirable in society; the other that of fortune, which must exist, because property alone can stimulate to labour; and labour, if it were not necessary to the existence, would be indispensable to the happiness, of man. But though it be necessary, yet, in its excess, it is the great malady of civil society. The accumulation of that power, which is conferred by wealth, in the hands of the few, is the perpetual source of oppression and neglect to the mass of mankind. The power of the wealthy is further concentrated by their tendency to combination, from which number, dispersion, indigence, and ignorance equally preclude the poor. The wealthy are formed into bodies by their professions, their different degrees of opulence (called *ranks*), their knowledge, and their small number. They necessarily, in all countries, administer government, for they alone have skill and labour for its functions. Thus circumstanced, nothing can be more evident than their inevitable preponderance in the political scale. The preference of partial to general interests is, however, the greatest of all public evils: it should, therefore, have been the object of all laws to repress this malady; but it has been their perpetual tendency to aggravate it. Not content with the inevitable inequality of fortune, they have superadded to it honorary and political distinctions. Not content with the inevitable tendency of the wealthy to combine, they have embodied them in classes; they have fortified those conspiracies against the general interest, which they ought to have resisted, though they could not disarm. Laws, it is said, cannot equalise men. No; but ought they for that reason to aggravate the inequality which they cannot cure? Laws cannot inspire unmixed patriotism; but ought they for

that reason to foment that corporation spirit which is its most fatal enemy? 'All professional combinations,' said Mr. Burke in one of his late speeches in parliament, 'are dangerous in a free state.' Arguing on the same principle, the National Assembly has proceeded further. They have conceived that the laws ought to create no inequality of combination, to recognise all only in their capacity of citizens, and to offer no assistance to the natural preponderance of partial over general interest.

"Hitherto all had passed unnoticed; but no sooner did the Assembly, faithful to their principles, proceed to extirpate the external signs of ranks which they no longer tolerated, than all Europe resounded with clamours against their Utopian and levelling madness. The incredible decree of the 19th of June, 1790, for the suppression of titles, is the object of all these invectives; yet, without that measure, the Assembly would certainly have been guilty of the grossest inconsistency and absurdity. An *untitled* nobility forming a member of the state, had been exemplified in some commonwealths of antiquity; such were the patricians in Rome. But a titled nobility, without legal privileges, or political existence, would have been a monster new in the annals of legislative absurdity. The power was possessed, without the bauble, by the Roman aristocracy; the bauble would have been revered, while the power was trampled on, if titles had been spared in France. A titled nobility is the most undisputed progeny of feudal barbarism. Titles had, in all nations, denoted offices; it was reserved for Gothic Europe to attach them to ranks: yet this conduct of our remote ancestors admits explanation; for with them offices were hereditary, and hence the titles denoting them became hereditary too. But we, who have rejected hereditary office, retain an usage to which it gave rise, and which it alone could justify.

"So egregiously is this recent origin of titled nobility misconceived, that it has been even pretended to be necessary to the order and existence of society, a narrow and arrogant bigotry, which would limit all political remark to the Gothic states of Europe, or establish general principles on events that occupy so short a period of history, and manners that have been adopted by so slender a portion of the human race. A titled nobility was equally unknown to the splendid monarchies of Asia, and to the manly simplicity of the ancient commonwealths. It arose from the peculiar circumstances of modern Europe; and yet its necessity is now erected on the basis of universal experience, as if these other renowned and polished states were effaced from the records of history, and banished from the society of nations. 'Nobility is the Corinthian capital of polished states;' the august fabric of society is deformed and encumbered by such Gothic ornaments. The massy Doric that sustains it is labour; and the splendid variety of arts and talents, that solace and embellish life, form the decoration of its Corinthian and Ionic capitals."

The boldest, and at the same time the most permanent, reform effected by the Constituent Assembly, was that of the French church. No one of its measures was more vehemently reprobated in the "Reflections." It is defended with less passion, and equal vigour, in the *Vindiciæ Gallicæ*.

"The fate of the church, the second great corporation that sustained the French despotism, has peculiarly provoked the indignation of Mr. Burke. The dissolution of the church as a body, the resumption of its territorial revenues, and the new organisation of the priesthood, appears to him to be dictated by the union of robbery and irreligion, to glut the rapacity of the stock-jobbers, and to gratify the hostility

of Atheists. All the outrages and proscriptions of ancient or modern tyrants vanish, in his opinion, in the comparison with this confiscation of the property of the Gallican church. Principles had, it is true, been on this subject explored, and reasons had been urged by men of genius, which vulgar men deemed irresistible. But with these reasons Mr. Burke will not deign to combat. 'You do not imagine, Sir,' says he to his correspondent, 'that I am going to compliment this *miserable description of persons* with any long discussion?' What immediately follows this contemptuous passage is so outrageously offensive to candour and urbanity, that an honourable adversary will disdain to avail himself of it. The passage itself, however, demands a pause. It alludes to an opinion of which, I trust, Mr. Burke did not know the origin. That the church lands were national property, was not first asserted among the Jacobins, or in the Palais Royal. The author of that opinion, the master of that wretched description of persons whom Mr. Burke disdains to encounter, was one whom he might have combated with glory, with confidence of triumph in victory, and without fear of shame in defeat. The author of that opinion was TURGOT!—a name now too high to be exalted by eulogy, or depressed by invective. That benevolent and philosophic statesman delivered it in the article *Fondation*, in the *Encyclopédie*, as the calm and disinterested opinion of a scholar, at a moment when he could have no view to palliate rapacity, or prompt irreligion. It was no doctrine contrived for the occasion by the agents of tyranny; it was a principle discovered in pure and harmless speculation, by one of the best and wisest of men. I adduce the authority of Turgot, not to oppose the arguments (if there had been any), but to counteract the insinuations of Mr. Burke. The authority of his assertions forms a prejudice, which is thus to be removed before we can hope for a fair audience at the bar of reason. If he insinuates the flagitiousness of these opinions by the supposed vileness of their origin, it cannot be unfit to pave the way for their reception, by assigning them a more illustrious pedigree."

The following prophecy is subjoined by Sir James in a note :—

"Did we not dread the ridicule of political prediction, it would not seem difficult to assign its period. Church power (unless some revolution auspicious to priestcraft should replunge Europe in ignorance) will certainly not survive the nineteenth century."

The following, again, is Mackintosh's antagonist's *coup d'œil* of the Revolution :—

"Thus various are the aspects which the French Revolution, not only in its influence on literature, but in its general tenor and spirit, presents to minds occupied by various opinions. To the eye of Mr. Burke it exhibits nothing but a scene of horror. In his mind it inspires no emotion but abhorrence of its leaders, commiseration of their victims, and alarms at the influence of an event which menaces the subversion of the policy, the arts, and the manners of the civilised world. Minds who view it through another medium are filled by it with every sentiment of admiration and triumph—of admiration due to splendid exertions of virtue, and of triumph inspired by widening prospects of happiness.

"Nor ought it to be denied by the candour of philosophy, that events so great are never so *unmixed* as not to present a *double* aspect to the acuteness and exaggeration of contending parties. The same ardour of passion which produces patriotic and legislative heroism becomes the source of ferocious retaliation, of visionary novelties, and precipitate change. The attempt were hopeless, to increase the fer-

tility without favouring the rank luxuriousness of the evil. He that on such occasions expects unmixed good, ought to recollect that the economy of nature has invariably determined the equal influence of high passions in giving birth to virtues and to crimes. The soil of Attica was remarked by antiquity as producing at once the most delicious fruits and the most virulent poisons. It is thus with the human mind ; and to the frequency of convulsions in the ancient commonwealths, they owe those examples of sanguinary tumult and virtuous heroism which distinguish their history from the monotonous tranquillity of modern states. The passions of a nation cannot be kindled to the degree which renders it capable of great achievements, without endangering the commission of violences and crimes. The reforming ardour of a senate cannot be inflamed sufficiently to combat and overcome abuses, without hazarding the evils which arise from legislative temerity. Such are the immutable laws, which are more properly to be regarded as libels on our nature, than as charges against the French Revolution. The impartial voice of history ought, doubtless, to record the blemishes as well as the glories of that great event ; and to contrast the delineation of it which might have been given by the specious and temperate *Toryism* of Mr. Hume, with that which we have received from the repulsive and fanatical invectives of Mr. Burke, might still be amusing and instructive. Both these great men would be adverse to the Revolution ; but it would not be difficult to distinguish between the undisguised fury of an eloquent advocate, and the well-dissembled partiality of a philosophical judge. Such would, probably, be the difference between Mr. Hume and Mr. Burke, were they to treat on the French Revolution. The passions of the latter would only feel the excesses which had dishonoured it ; but the philosophy of the former would instruct him that the human feelings, raised by such events above the level of ordinary situations, become the source of a guilt and a heroism unknown to the ordinary affairs of nations ; that such periods are only fertile in those sublime virtues and splendid crimes which so powerfully agitate and interest the heart of man."

The *Vindiciæ Gallicæ* had two leading objects ; first to defend the French Revolution, next to vindicate its English admirers. The great schism among the Whigs may be reduced to the question, Which of the two parties,—the opponents or the admirers of the French Revolution of 1789,—were the true Whigs of the English Revolution of 1688 ? This question was treated by Burke incidentally in the "Reflections," and afterwards in a separate publication. It is touched on as follows by Mackintosh:—

"The Revolution of 1688 is confessed to have established principles, by those who lament that it has not reformed institutions. It has sanctified the theory, if it has not insured the practice, of a free government. It declared, by a memorable precedent, the right of the people of England to revoke abused power, to frame the government, and bestow the crown. There was a time, indeed, when some wretched followers of Filmer and Blackwood lifted their heads in opposition. But more than half a century had withdrawn them from public contempt to the amnesty and oblivion which their innoxious stupidity had purchased.

"It was reserved for the latter end of the eighteenth century to construe these innocent and obvious inferences into libels on the constitution and the laws. Dr. Price had asserted (I presume without fear of contradiction), that the House of

Hanover owes the crown of England to the choice of the people; that the Revolution has established our right 'to choose our own governors, to cashier them for their misconduct, and to frame a government for ourselves.' The first proposition, says Mr. Burke, is either false or nugatory. If it imports that England is an elective monarchy, 'it is an unfounded, dangerous, illegal, and unconstitutional position.' If it alludes to the election of his Majesty's ancestors to the throne, it no more legalises the government of England than that of other nations, where the founders of dynasties have generally founded their claims on some sort of election. The first member of this dilemma merits no reply. The people may certainly, as they have done, choose hereditary rather than elective monarchy. They may elect a race instead of an individual. Their right is in all these cases equally unimpaired. It will be in vain to compare the pretended elections in which a council of barons, or an army of mercenaries, have imposed usurpers on enslaved and benighted kingdoms, with the solemn, deliberate, national choice of 1688. It is, indeed, often expedient to sanction these deficient titles by subsequent acquiescence. It is not among the projected innovations of France, to revive the claims of any of the posterity of Pharamond and Clovis, or to arraign the usurpation of Pepin or Hugh Capet. Public tranquillity thus demands that a veil should be drawn over the successful crimes through which kings have so often waded to the throne. But wherefore should we not exult, that the supreme magistracy of England is free from this blot; that, as a direct emanation from the sovereignty of the people, it is as legitimate in its origin as in its administration? Thus understood, the position of Dr. Price is neither false nor nugatory. It is not nugatory, for it honourably distinguishes the English monarchy among the governments of the world; and if it be false, the whole history of our Revolution must be a legend. The fact was shortly, that the Prince of Orange was elected King of England, in contempt of the claims, not only of the exiled monarch and his son, but of the Princesses Mary and Anne, the undisputed progeny of James II. The title of William III. was, then, clearly not *succession*; and the House of Commons ordered Dr. Burnet's tract to be burnt by the hands of the common hangman for maintaining that it was *conquest*. There remains only *election*, for these three claims to royalty are all that are known among men. It is futile to urge, that the convention deviated very *slenderly* from the order of succession. The deviation was, indeed, slight, but it destroyed the principle, and established the right to deviate,—the point at issue. The principle that justified the elevation of William III., and the preference of the posterity of Sophia of Hanover to those of Henrietta of Orleans, would equally, *in point of right*, have vindicated the election of Chancellor Jeffries or Colonel Kirk. The *choice* was, like every other choice, to be guided by views of policy and prudence, but it was a choice still.

"From those views arose that repugnance between the conduct and the language of the Revolutionists, of which Mr. Burke has availed himself. Their conduct was manly and systematic. Their language was conciliating and equivocal. They kept measures with prejudice, which they deemed necessary to the order of society. They imposed on the grossness of the popular understanding by a sort of compromise between the constitution and the abdicated family. 'They drew a politic well-wrought veil,' to use the expression of Mr. Burke, over the glorious scene which they had acted. They affected to preserve a semblance of succession, to recur for the objects of their election to the posterity of Charles and James, that respect and loyalty might with less violence to public sentiment attach to the new sovereign. Had a Jacobite been permitted freedom of speech in the parliament of William III., he might thus have arraigned the Act of Settlement:—'Is the language of your statutes to be at eternal war with truth? Not long ago you profaned the forms of devotion, by a thanksgiving, which either means nothing, or insinuates a lie. You thanked Heaven for the preservation of a king and queen on the *throne of their an-*

cestors—an expression which either was singly meant of their descent, which was frivolous, or insinuated their hereditary right, which was false. With the same contempt for consistency and truth, we are this day called on to settle the crown of England on a princess of Germany, because she is the granddaughter of James I. If that be, as the phraseology intimates, the *true* and *sole* reason of the choice, consistency demands that the words after “excellent” should be omitted, and in their place be inserted “Victor Amadeus, Duke of Savoy, married to the daughter of the most excellent princess Henrietta, late Duchess of Orleans, daughter of our late sovereign lord Charles I. of glorious memory.” Do homage by loyalty in your actions or abjure it in your words; avow the grounds of your conduct, and your manliness will be respected by those who detest your rebellion.’ What reply Lord Somers or Mr. Burke could have devised to this philippic, I know not, unless they confessed that the authors of the Revolution had one language for novices and another for adepts. Whether this conduct was the fruit of caution and consummate wisdom, or of a narrow, arrogant, and dastardly policy, which regarded the human race as only to be governed by being duped, it is useless to enquire, and might be presumptuous to determine; but it certainly was not to be expected that any controversy should have arisen by confounding their *principles* with their *pretexts*. With the latter, the position of Dr. Price has no connexion; from the former, it is an infallible inference.”

The phrase of cashiering kings for misconduct was one of the most bandied in the controversies of the Revolution. It conveyed the essence of the question put in the extreme, and levelled royalty by a familiar expression. Dr. Price first launched it in a political sermon which inflamed the passions of adverse parties, and drew upon its author all the anger and eloquence of Burke. The preacher is ably defended by Mackintosh.

“The next doctrine of this obnoxious sermon that provokes the indignation of Mr. Burke is, that the Revolution has established ‘our right to cashier our governors for misconduct.’ Here a plain man could have foreseen scarcely any diversity of opinion. To contend that the deposition of a king for the abuse of his powers did not establish a principle in favour of the like deposition when the like abuse should again occur, is certainly one of the most arduous enterprises that ever the heroism of paradox encountered. He has, however, not neglected the means of retreat. ‘No government,’ he tells us, ‘could stand a moment, if it could be blown down with any thing so loose and indefinite as opinion of *misconduct*.’ One might suppose, from the dexterous levity with which the word *misconduct* is introduced, that the partisans of democracy had maintained the expediency of deposing kings for every frivolous and venial fault, of revolting against a monarch for the choice of titled or untitled valets, for removing his footmen, or his lords of the bedchamber. It would have been candid in Mr. Burke not to have dissembled what he must know, that by *misconduct* was meant that precise species of misconduct for which James II. was dethroned—a conspiracy against the liberty of his country.

“Nothing can be more weak than to urge the *constitutional irresponsibility* of kings or parliaments. The law can never suppose them responsible, because their responsibility supposes the dissolution of society, which is the annihilation of law. In the governments which have hitherto existed, the power of the magistrate is the

only article in the social compact : destroy it, and society is dissolved. A legal provision for the responsibility of kings would infer, that the authority of laws could co-exist with their destruction. It is because they cannot be legally and constitutionally, that they must be morally and rationally, responsible. It is because there are no remedies to be found within the pale of society, that we are to seek them in nature, and throw our parchment chains in the face of our oppressors. No man can deduce a precedent of *law* from the Revolution; for law cannot exist in the dissolution of government. A precedent of reason and justice only can be established on it; and perhaps the friends of freedom merit the misrepresentation with which they have been opposed, for trusting their cause to such frail and frivolous auxiliaries, and for seeking in the profligate practices of men what is to be found in the sacred rights of nature. The system of lawyers is, indeed, widely different; they can only appeal to usage, precedents, authorities, and statutes. They display their elaborate frivolity, their perfidious friendship, in disgracing freedom with the fantastic honour of a pedigree. A pleader at the Old Bailey, who would attempt to aggravate the guilt of a robber, or a murderer, by proving that King John, or King Alfred, punished robbery and murder, would only provoke derision. A man who should pretend that the reason why we had a right to property is, because our ancestors enjoyed that right 400 years ago, would be justly contemned. Yet so little is plain sense heard in the mysterious nonsense which is the cloak of political fraud, that the Cokes, the Blackstones, and Burkes, speak as if our right to freedom depended on its possession by our ancestors. In the common cases of morality, we would blush at such an absurdity : no man would justify murder by its antiquity, or stigmatise benevolence for being new. The genealogist who should emblazon the one as coeval with Cain, or stigmatise the other as upstart with Howard, would be disclaimed even by the most frantic partisan of aristocracy. This Gothic transfer of *genealogy* to truth or justice is peculiar to politics. The existence of robbery in one age makes its vindication in the next, and the champions of freedom have abandoned the stronghold of right for precedent, which, when the most favourable, is, as might be expected, from the ages which furnish it, feeble, fluctuating, partial, and equivocal. It is not because we *have* been free, but because we have a right to be free, that we ought to demand freedom. Justice and liberty have neither birth nor race, youth nor age. It would be the same absurdity to assert that we have a right to freedom because the Englishmen of Alfred's reign were free, as that three and three are six because they were so in the camp of Genghis Khan. Let us hear no more of this ignoble and ignominious pedigree of freedom. Let us hear no more of her Saxon, Danish, or Norman ancestors. Let the immortal daughter of reason, and of God, be no longer confounded with the spurious abortions that have usurped her name."

The society of "the Friends of the People," for the purpose of obtaining a parliamentary reform, was instituted early in 1792, under the auspices of the present prime minister, then Mr. Grey. It comprised members of both houses of parliament, and some of the most eminent professional, literary, and mercantile men in England. Mackintosh was one of the original members, and became its secretary. The petition of this society, presented to the House of Commons by Mr. Grey, in May, 1793, remained a deadly arrow, fast and festering, in the side of borough oligarchy from that period to the passing of the Reform Bill. The ultimate triumph

of the facts and arguments, which it recorded with admirable compactness, is rather a disheartening proof of the slow progress of human reason, even in a country where reason is least trammelled, than a consoling one of the superior force of truth. There are, however, in the fluctuations of public opinion, the vicissitudes of political party, and the fortunes of party leaders, few events more curious than that it should be reserved for Lord Grey to carry into effect, in his advanced age, the principles of his early youth, after the awful lapse of forty years over his head, and after they had been renounced or despaired of even by himself. Some have supposed that the petition was drawn up by Sir James Mackintosh: but that remarkable document does not bear the impress of his mind or style. It was written by the late Mr. Tierney. He, however, wrote several of the manifestoes, and conducted the correspondence of "the Friends of the People" with great ability. The well-known "Declaration of the Friends of the People" was written by him. A pamphlet written by him on the apostasy of Mr. Pitt from the cause of reform, obtained him from the Society a vote of thanks. He obtained also the honours of denunciation by the Attorney-General in Parliament. That conservative law officer, Sir John Scott, now Lord Eldon, called upon the House of Commons, in 1795, to continue the suspension of the Habeas Corpus Act, as they feared the writings and principles of Paine, Mackintosh, Mrs. Wolstoncraft, and "the Friends of the People." In two years more the *Vindiciæ Gallicæ* were cited not only with respect, but as an authority, by the adversaries of reform. This change of tone drew the following observations from Mr. Fox:—

"An honourable gentleman," says he, "has quoted a most able book on the subject of the French Revolution, the work of Mr. Mackintosh; and I rejoice to see that gentleman begin to acknowledge the merits of that eminent writer; and that the impression that it made upon me at the time is now felt and acknowledged even by those who disputed its authority. The honourable gentleman has quoted Mr. Mackintosh's book on account of the observation which he made on the article which relates to the French elections. I have not forgotten the sarcasms that were flung out on my approbation of this celebrated work: that I was told of my 'new library stuffed with the jargon of the Rights of Man;' it now appears, however, that I did not greatly over-rate this performance, and that those persons now quote Mr. Mackintosh as an authority, who before treated him with splenetic scorn.

"Now, Sir, with all my sincere admiration of this book, I think the weakest and most objectionable passage in it is that which the honourable gentleman has quoted; I think it is that which the learned author would himself be the most desirous to correct. Without descending to minute and equivocal theories, and

without enquiring further into the Rights of Man than what is necessary to our purpose, there is one position in which we shall all agree,—that man has the right to be well governed.”

Sir James Mackintosh, on engaging actively in politics, renounced medicine, and entered himself of Lincoln's Inn. Called to the bar in 1795, he derived little emoluments from his profession, but was not without resources. The death of an annuitant released the property left by his father from an absorbing charge; and he was enabled to raise money upon it, for his present necessities, by a mortgage. With his characteristic improvidence, he was about to sell it disadvantageously, but was dissuaded by his wife. He, at the same time, employed himself in contributions to the daily and periodical press, but, with his want of economy and prudence, and with the expenses of a family, it will be readily supposed that he was often embarrassed.

His political opinions now underwent a change, which was variously judged. It has been ascribed to a visit of some days to Burke. There are two versions of the origin of his acquaintance with his great adversary. According to one account, he was induced to write to Burke, without having yet had any personal intercourse with him, a letter of recommendation or introduction of some third person; according to the other, Burke charged Doctor Lawrence with a long letter to him, containing an invitation to Beaconsfield. A change of religious opinion, under such circumstances, is credible for obvious reasons. But that the political conversion of Mackintosh should be effected in a few days, even by so eloquent and zealous a propagandist as Burke, can be brought within the limits of probability only by assuming that he had what physicians call a predisposition when he went to Beaconsfield. A humane man would naturally recoil from the turn of affairs in France, and humanity was predominant in the career of Sir James Mackintosh. Yet he might have recollected that, if the Revolution produced men of blood, religion had generated persecutors, and monarchy tyrants, to become as bloody scourges of the human race. The supposition that his political opinions were made thus suddenly to veer about, would shake his claim to that depth, firmness, and force of principles and character, which are the growth of the first order of minds. Other disgusts than those of Jacobinism and the Revolution may be easily conceived to have been felt by him. With talents and ambition, he had his fortune to make. Notwithstand-

ing his intimacy with the leading Whigs, and their estimation of him, he was still but the pioneer of a party; and he must have found the cause of liberty and the people a barren service. The man who would attach himself to the Whigs, or serve the people, must not be dependent for his fortune upon either, if he would aspire to political station, or escape disgusts. What was Burke but the subaltern — the very slave of a party — and the pensioner of Lord Rockingham — degraded, rather than distinguished, by the paltry title of a privy counsellor? If Huskisson became a leading cabinet minister, and Canning the chief of an administration, it was because they renounced whiggism at the threshold of public life. Thus humanity, ambition, and his necessities may have predisposed Sir James Mackintosh to become a convert; and the knowledge of this predisposition would account for the spontaneous advances and invitation of Burke. His conversion, however, was not yet openly avowed, and he continued on terms of political and personal intimacy with the leading Whigs. He professed an enthusiastic admiration of Burke's genius, without sharing his principles; and, on the death of that celebrated man, in 1797, asked Fox to move, in parliament, the erection of a monument to his memory. Mr. Fox declined being the mover, but expressed his readiness to support the motion if made by another.

Sir James Mackintosh appears to have cherished the memory of Burke with a feeling of affectionate piety. Dr. Parr had an acknowledged, or assumed, pre-eminence as a writer of Latin in what is called the lapidary style: recourse was had to the Foxite Doctor, probably through Sir James, for an epitaph on Burke,—a proof, by the way, that rhetoric is more consulted than truth in those mortuary eulogies. There is, in the published correspondence of Parr, a letter from Mackintosh on the subject of the epitaph, curious for the artifices of expression, and surcharged compliments, in which it was necessary to envelop the suggestion of even a critical doubt to the jealous Latinist. The letter professes to be a joint production, Mackintosh holding the pen.

“Scarlet, Sharp, and G. Philips, are in town. The two first are within your permission as to the epitaph, and my admiration is too warm for me not to be eager to communicate it to men so well qualified to feel its excellence. I need not tell you how they felt it. My wonder increases with familiarity, contrary to the common course of our feelings; but it is because I cannot peruse it or think of it without discovering new difficulties overcome, and new beauties attained. We

all admire it so much, that we hope you will think us authorised to lay before you our doubts (we shall not call them criticisms) respecting one part of it. It is that which follows 'Critico,' and which I presume you mean to apply to the book on the Sublime and Beautiful.

"Our first doubt relates to the first line, 'qui verborum quotidianorum vim reconditam illustravit.' How is this praise peculiarly appropriate to the book? Has it any reference to our idiomatic style, or does it not rather refer to the philosophical illustration of terms which had been generally but vaguely used before? Our next difficulty relates to the third line, 'Adumbratas rerum imagines multo expressiores reddidit, multoque dilucidiores.' The construction of this line is easy, and the phraseology beautiful; but we are perplexed by the application of it to the work which it is designed to characterise. It seems to us capable of more than one meaning. This perplexity arises, no doubt, from our ignorance; but there will be many readers of the epitaph still more ignorant than we are."

Strong signs of the new faith of Mackintosh may be observed in his anonymous contributions at this period to the Reviews of the day. He wrote a great number of papers, and upon a great variety of subjects, in the Monthly Review. Among these are notices of Burke's "Letter to a Noble Lord," and "Thoughts on a Regicide Peace."

The contemplation of Burke's writings, genius, and afflictions appears to have inspired him with a sentiment of reverential kindness. He vindicates, by antiquarian research, the ancestor of the Duke of Bedford from the eloquent diatribe of his assailant, but condemns the provocation given, and writes with restraint and difficulty between the adverse distractions of party and private feeling,—the Whigs, the alarmists, Fox and Burke.

"All the writings of Mr. Burke possess so many powerful attractions, that even the irksome and ungrateful topics of personal altercation become interesting in his hands. The publication before us has taken its rise from a parliamentary discussion on his pension; a discussion, which (with the utmost respect for the noble persons with whom it originated) we always thought had too much the air of a harsh and unseemly proceeding. Many circumstances will suggest themselves to the unprejudiced mind, which might have been sufficient to silence any rigorous scrutiny into the merits of the present grant. The venerable age of a great man, his transcendent genius, his retirement from the world, his domestic calamities, ought surely to have prevailed over party resentment, and, perhaps, even to have disarmed the severity of public virtue herself. At least we might have expected a similar effect from similar causes, in generous and amiable natures, such as we most sincerely believe to be those of the Duke of Bedford and the Earl of Lauderdale. We agree with these noble persons in doubting the propriety, if not the legality, of applying the fund from which this pension is drawn to such a purpose; and we believe that Mr. Burke himself has severely felt (though he has not chosen to express it in this pamphlet) the mortification of receiving, as a clandestine gift, that which he expected to have been voted by

parliament as an offering of national gratitude. In this honourable and parliamentary way, it would, probably, have been not merely allowed, but zealously supported, by Mr. Fox; the tenderness of whose friendship survives the connexions of politics, and whose mind is so happily framed that he can feel the ardour of rivalry without jealousy, and display the activity of opposition without rancour. The behaviour of this great statesman towards the friend of so many years, amply justifies the character which has been delineated by the masterly pencil of Mr. Gibbon. 'I admired the powers of a superior man as they are blended, in his (Mr. Fox's) attractive character, with the softness and simplicity of a child. Perhaps no human being was ever more free from the taint of malevolence, vanity, or falsehood.'

There are, in the same volume, short notices by Sir James Mackintosh of minor publications, which followed in the train of Burke's letter, offering homage or annoyance, both, for the most part, equally beneath that extraordinary man. The strictures of Sir James are tempered, sometimes, by personal acquaintance or public respect; but he is, in general, unsparing of his castigation and contempt. Among the pamphleteers whom he dismisses gently are Messrs. Street, Thelwall, and O'Brien. Gilbert Wakefield is censured by him in passing, with good taste and just respect. There is something curious in the comparison of his tone, as a critic, at this early period, with that of his later years. Latterly, his censure was qualified, his praise unreserved; formerly, his praise was moderate, his censure unrestrained. He had then little indulgence for presumption or mediocrity. Among the objects of his critical severity was a prolific pamphleteer of the day, named Miles. Mr. Miles was scurrilous in his language, had the reputation of being not quite incorrupt in his practice, and is treated accordingly. A reply to him passes next in review:—"The author of this pamphlet," says the critic, "has retaliated on Mr. Miles in his own furious and abusive language." He then adds, "the style of this writer is indeed less intolerable than that of Mr. Miles, and the following retort is not without ingenuity. 'If you seriously propose any end from these extraordinary means, it must be to persuade the world that Mr. Burke meant, in the Duke of Bedford, to attack the whole aristocracy of the country. The falsity of such a deduction is too obvious to require refutation. As well might you say, that in attacking you, I meant to attack all the literary men of the day who have combated Mr. Burke, when, perhaps, there cannot be found in nature a greater contrast than a Mackintosh and a Miles.'"

Such is the magic which can soften a reviewer, and seduce him into quotation: such the infirmity of authorship and of human na-

ture;—not of Sir James Mackintosh. The following passage, from a notice of one of the adversaries of Burke, may be interesting as a specimen of the style in which Sir James distributed his severer justice,—and of the delirious imbecility of the pamphleteers of that day:—

“We could not without some astonishment proceed in reading this extraordinary and incomprehensible production, till we found the solution of the riddle in the fifth page. The writer there says, in a strain of obsequious politeness, which we believe was never before shown to any author by his answerer,—‘My labours shall, I trust, be uniform. Where the antagonist is warm, I shall also be warm; where phlegmatic, I shall be phlegmatic; *where absurd, I shall exemplify that absurdity; if at any time, in any of his flights, he acts the madman, I shall even act that part too!*’ After the last declaration, we can no longer wonder at any thing in the writings of this author. Of any other writer, who had made a less sublime declaration, we should have been strongly tempted to ask the meaning of those choice phrases with which this pamphlet abounds: ‘ephemeral horrors of hideous self views,’ p. 2.; ‘the republic of *periodic* wit,’ *ib.*; ‘corybantiate shrieks,’ p. 3.; ‘champion of infernality,’ p. 4; ‘dulciated minister,’ p. 13. He tells us that Mr. Burke was ‘in his closet a demagogue.’ The idea of a man playing the part of a demagogue in his closet, haranguing *mobs* of *books*, and arranging *factions* of *chairs*, is unrivalled by any thing but the description, by Cervantes, of the unfortunate knight of *La Mancha* mistaking wine-skins for giants, and the wine for their blood. Forums and senate-houses used to be the scenes in which the character of the demagogue was displayed; and even the most restless and turbulent spirits were supposed, till the discoveries of Mr. Macleod appeared, to lay aside, in some measure, the demagogue, when they entered the quiet retreat of their closets.”

The French Convention gave way to the Directory in 1795. Mr. Pitt sent Lord Malmesbury to negotiate with the Republic in 1796. The negotiator’s instructions were so restricted or imperfect that he could not make one step in advance without fresh authority from London; and the Parisians said his was a mission of bags and couriers. No reflecting person expected peace. Burke had lived for some time retired from the world, at Beaconsfield, broken down by parental sorrow, political disappointments, angry disputes, and bodily infirmities. The bare idea of peace with the regicide republic excited him to an access of distempered vigour, and he threw off a series of letters against the “regicide peace,” with all the fervour of his eloquence and force of his genius in his best days. They are reviewed by Sir James Mackintosh with the same admiration of the author as in reviewing the “Letter to a Noble Lord,” and with the same tacking course; bearing alternately upon war and peace, and settling in neither, but with a leaning to the former. He indirectly assimilates the position of Burke to that of Demosthenes

rallying the degenerate Greeks in defence of their country; to Cicero, struggling to avert "an ignominious negotiation with a wretch who was then a rebel, and who soon afterwards became one of the most cruel and profligate of tyrants," to William III.; "a more recent and a domestic example," says Sir James, "mentioned by Mr. Burke, of which we equally applaud the patriotism and the wisdom." The name of King William acted like a spell upon the imagination of Sir James Mackintosh. Reviewing Burke's "Letters on a Regicide Peace," he starts off into the following elaborate and irrelevant panegyric on that prince:—

"The mind which has acquired a true relish for moral beauty will turn from more dazzling heroes, to admire the simplicity, the consistency, the usefulness, the solid wisdom, the calm and patient perseverance of his unostentatious and unboastful character. There is scarcely another instance of a man so singularly favoured by heaven, that no object of his ambition could ever be obtained, except by rendering signal services to mankind. Ambition and public virtue became in him the same principle, acting throughout his whole life for the same ends, and by the same means. They inspired him with that courageous wisdom which saved Holland, which delivered England, and which preserved Europe from the domination of Louis XIV. His life was a complete and uniform system; and it requires not only intrepid honesty but rare felicity in a political man, to be able to pursue for thirty years, with undeviating and undaunted constancy, amid the opposition of factions, the discontent of the people, and the most calamitous reverses of fortune, one noble object; that of maintaining the internal freedom and establishing the external security of nations. His zeal for religion was, during an intolerant age, pure from the spirit of persecution; his heroism was undebased by affectation or parade. He did for Europe much more than he seemed to do. He contributed even by the defeats which he suffered to break the power of France, and to pave the way for the brilliant successes of the glorious war which followed. He formed and animated that grand alliance which could alone have set bounds to the ambition of Louis XIV., and to him a great part of its victories and of that general safety which was the happy fruit of these victories ought in justice to be ascribed: the glory has been reaped by Eugene and Marlborough, but much of the real merit belongs to the provident mind of William. If there be any man in the present age who deserves the honour of being compared with this great prince, it is George Washington. The merit of both is more solid than dazzling. The same plain sense, the same simplicity of character, the same love of their country, the same unaffected heroism, distinguish both these illustrious men; and both were so highly favoured by Providence as to be made its chosen instruments for redeeming nations from bondage. As William had to contend with greater captains, and to struggle with more complicated political difficulties, we are able more decisively to ascertain his martial prowess, and his civil prudence. It has been the fortune of Washington to give a more signal proof of his disinterestedness, as he has been placed in a situation in which he could without blame resign the supreme administration of that commonwealth which his valour had guarded in its infancy against foreign force, or which his wisdom has since guided through still more formidable domestic perils."

The same admiration of William III., the same views of his life

and character, in almost the same language, will be found in the present work of Sir James Mackintosh. But it is the property of admiration to exaggerate merits, to leave faults out of view, to exalt human nature into ideal perfection ; and the foregoing character, especially the comparison of William III. with Washington, is rather a rhetorical trial of eloquence and ingenuity, than the faithful delineation of a painter from history. In the anonymous and fugitive literature of a Review, this may be unimportant or excusable ; but it biassed the mind of Sir James in his graver works. To abandon this digression, and return to the review : having touched on the contents of the publication, he gives the following character of the style and genius of Burke :—

“ Such is the outline of this publication, of which, if it be considered merely as a work of literature, it might be sufficient to say, that it is scarcely surpassed in excellence by any of the happiest productions of the best days of its author. The same vast reach and comprehension of view ; the same unbounded variety of allusion, illustration, and ornament, drawn from every province of nature and of science ; the same unrivalled mastery over language ; the same versatility of imagination, which at will transforms itself from sublime and terrific genius, into gay and playful fancy ; the same happy power of relieving the harshness of political dispute, by beautiful effusions of sentiment, and of dignifying composition by grave and lofty maxims of moral and civil wisdom ; the same inexhaustible ingenuity in presenting even common ideas under new and fascinating shapes ; the same unlimited sway over the human passions, which fills us at his pleasure with indignation, with horror, or with pity,—which equally commands our laughter or our tears ; in a word, the same wit, humour, pathos, invention, force, dignity, copiousness, and magnificence, are conspicuous in this production, which will immortalise the other writings of Mr. Burke. There is nothing ordinary in his view of a subject : he has parts of all writers ; he is one of whom, it may be said with the most strict truth, that no idea appears hackneyed in his hands ; no topic seems common-place when he treats it. When the subject must (from the very narrowness of human conception, which bounds even the genius of Mr. Burke) be borrowed, the turn of thought and the manner of presenting it are his own : the attitude and drapery are peculiar to the master. It is, perhaps, scarcely becoming in us to animadvert on the *faults* of so great a writer ; yet it is our duty to deliver our opinion on this subject with modesty, indeed, but with freedom. With faults in argument, with indecorum and intemperance in language, we have, at present, no concern. These are matters of which the consideration belongs to logic, to prudence, and to manners. We consider these letters now merely in the capacity of literary critics. He exerts the privilege of his reputation in the frequent adoption of all the licences of style ; and though he often exercises with happy boldness his power over language, yet he sometimes abuses the renewal of antique phraseology. The use of language exclusively poetical, and even of foreign idioms, is more frequent in this pamphlet ; than in any of the former productions of the author : the first of these is, undoubtedly, one of the happiest artifices that can be employed to exalt and enrich the composition ; yet it must be cautiously employed, if a writer would escape the charge of affectation, and if he be desirous of preserving the charms of ease and nature. The adoption of poetical language is a licence which can only be pardoned in writers of

the first class, and which, if it be not used with the most sparing hand, has an inevitable tendency to confound all the distinguishing characters of the most different kinds of composition; to deprive prose of its sobriety, and to rob verse of that dignity which it derives from the appropriation of a peculiar phraseology to its use. The coinage of new words is, indeed, a prerogative which is due to great writers; but its existence could only be tolerated on account of its infrequent exercise. The intermixture of foreign idiom, we scarcely think even tolerable. The French structure of Hume's sentences, and the French phraseology of Bolingbroke, were justly, though severely, censured by Johnson, when he expressed his apprehension that 'we should soon be reduced to babble a dialect of France.' (*Preface to his Dictionary.*) It is in vain to say that the free use of licences enables us to express our ideas with more strength and felicity than is reconcilable with the preservation of a tame and frigid correctness. It is the part of a good writer not to acquiesce with indolent precipitation in the first glowing word which presents itself to his heated fancy, but to seek within the limits of propriety for language to convey his idea. The rules of good sense and taste are, indeed, restraints, but they are restraints which conduce to excellence, and to which a good writer must submit. He will struggle with the difficulty which they create, and will display his power and skill in vanquishing it. It comparatively is easy either to be vigorous without correctness, or correct without vigour: the art and merit of a good author consists in combining these two qualities. After all, if such licences were confined to those who have acquired such a right to employ them as Mr. Burke has obtained, the evil would be little. But the danger arises from the herd of imitators, who can neither copy nor discover his excellencies; but who can easily ape those defects; and who, if they be not speedily checked by severe criticism, and by the decided disapprobation of the public, threaten to destroy the purity of English idiom, and the propriety of English style."

Had Sir James written his great article on Burke, as it was called by Lord Byron, he could hardly have produced any thing superior for eloquence and fidelity to this early sketch. There is in it a force and freshness of touch which memory and imagination would in vain labour to recall. He develops another feature of the character, or, perhaps, rather a dominant idea in the mind of Burke, which well deserves to be reproduced.

"The following extract contains, we fear, not only a poignant and vigorous satire, but a just and correct statement of facts:—

"The creatures of the desk, and the creatures of favour, had no relish for the principles of the manifestoes. They promised no governments, no regiments, no revenues from whence emoluments might arise, by perquisite or by grant. In truth, the tribe of vulgar politicians are the lowest of our species. There is no trade so vile and mechanical as government in their hands. Virtue is not their habit. They are out of themselves in any course of conduct recommended only by conscience and glory. A large, liberal, and prospective view of the interests of states passes with them for romance; and the principles that recommend it, for the wanderings of a disordered imagination. The calculators compute them out of their senses. The jesters and buffoons shame them out of every thing grand and elevated. Littleness in object and in means, to them appears soundness and sobriety. They think there is nothing worth pursuit, but that which they can handle; which they can measure with a two-foot rule; which they can tell upon ten fingers.'

"This is a subject which, if we may judge from Mr. Burke's frequent recurrence to it in his writings, has often thwarted and exasperated him in his passage through life. It was likely to do so. His character is not only pure from the low vices of these vulgar politicians, but may possibly be suspected of some bias towards the opposite extreme. Perhaps something more of flexibility of character and accommodation of temper—a mind more broken down to the practice of the world—would have fitted him better for the exertion of that art which is the sole instrument of political wisdom, and without which the highest political wisdom is but barren speculation—we mean the art of guiding and managing mankind. The very passage before us, when we compare it with the general scheme of policy proposed by Mr. Burke, furnishes a remarkable proof of the truth of the observation which we have hazarded. How could Mr. Burke have forgotten that these vulgar politicians were the only tools with which he had to work, in reducing his scheme to practice? These creatures of the desk and creatures of favour unfortunately govern Europe. These narrow and selfish men were the sole instruments that could be employed in realising schemes, of which the success (according to Mr. Burke's own representation) depended on their disinterestedness. There were no other men possessed of power to carry the plan into execution. The ends of generosity were to be compassed alone through the agency of the selfish; and the objects of prospective wisdom were to be attained by the exertions of the short-sighted. There never was a project in which the means and the end were so fatally at variance. It was a scheme of policy, to be carried into execution by men who, from the statement of Mr. Burke, and from the very necessity of their character, must deride the whole plan as chimerical. It is surely not a little remarkable, that he, who as an observer of human life, has so admirably painted the character of these men, and, as a speculative philosopher, has so well traced their conduct to its principles, should, as a practical politician, have so utterly overlooked the inefficiency of the only tools which he had to employ."

There is in the fulness and earnestness of this passage something like secret fellow-feeling. The ambition and pride of Mackintosh had already known disappointments and disgusts. He concludes with a panegyric on Fox, somewhat unexpectedly and awkwardly introduced; and suggested, perhaps, by the very consciousness of receding from him. The base-minded follow up their desertion of a party, a principle, or a friend, by malice and defamation;—better spirits are but the more scrupulously and studiously just, by way, perhaps, of disguising or atoning for their own infirmity even to themselves:—

"We cannot close a subject on which we are serious, even to melancholy, without offering the slender but unbiassed tribute of our admiration and thanks to that illustrious statesman, the friend of (what we must call) the better days of Mr. Burke, whose great talents have been devoted to the cause of liberty and of mankind; who, of all men, most ardently loves, because he most thoroughly understands, the British constitution; who has made a noble and memorable, though unavailing, struggle to preserve us from the evils and dangers of the present war; who is requited for the calumny of his enemies, the desertion of his friends, and the ingratitude of his country, by the approbation of his own conscience, and by a well-grounded expectation of the gratitude and reverence of posterity, who never

can reflect on the event of this great man's counsels, without calling to mind that beautiful passage of Cicero, in which he deplores the death of his illustrious rival, Hortensius : *Si fuit tempus ullum cum extorquere arma posset e manibus iratorum civium boni civis auctoritas et oratio ; tum profecto fuit cum patrociniū pacis exclusum est aut errore hominum aut timore.*"

In a subsequent number of the Monthly Review Mackintosh resumes the subject, for the purpose of controverting the opinions expressed in the eloquent war-whoop of Burke. It would seem to be an after-thought, and is executed in a tone of languor, disinclination, and humility.

Lord (then Mr.) Erskine's "View of the Causes and Consequences of the War," passed through the friendly ordeal of the Monthly Review, in the hands of Sir James Mackintosh. The aim of the reviewer was rather to manage or minister to the vanity of the author, than characterise his talents or his work, and no extract would instruct or interest the reader.

Gibbon's posthumous works, and Roscoe's "Life of Lorenzo de' Medici," are the only standard or important publications of the day, in literature, reviewed by him. In treating the latter, he scarcely goes out of the contents of the history, and does not characterise the historian otherwise than by general eulogies, coloured with the partiality of friendship. The reviewer, indeed, whatever his general reading, was not sufficiently acquainted with the history of Italy in the various arts of civilisation at the period, to follow and judge the author. To decide upon the merits of such a work, the critic should have gone over the ground trodden by the historian, and, perhaps, travelled even beyond him. Hence it is that so few reviews of works of research deserve credit and authority. There are doubtless exceptions, and two may be cited : the review of Dr. Wordsworth on the Eikon Basilike, by Sir James Mackintosh,* and that upon a passage of Dr. Lingard's "History of England," avowed by Mr. Allen.* But the critics, in both instances, were stimulated by the interests of personal controversy and their reputations.

The genius, the style, the character, and the opinions of Gibbon, would be expected to bring the faculties of Sir James Mackintosh into full play. He has merely noticed in passing a few traits of the man rather than of the writer, and has left almost untouched the historian of the Roman empire. The review, for the most part,

* Ed. Rev. No. LXXXVII.

contains only the substance of the *Memoirs of Gibbon*, extracted and compressed for the use of the reader. There are, however, a few passages which have the merits of eloquence and discrimination. After citing Gibbon's account of the theological fluctuations of Chillingworth, he remarks upon it as follows :—

“To this eloquent account we have only one objection, that it too lightly adopts that rumour which was propagated against Chillingworth by the bigots and impostors of his own age, of his having subdivided into that philosophic indifference, which might have been honourable in the eyes of Mr. Gibbon, but which we do not believe to have been so in those of Chillingworth. To adopt the charges of bigots is not worthy of a philosopher. Chillingworth was called an infidel, by the zealots of his age, because he was moderate, candid, and rational; in the same manner that impostors, clad in the disguise of bigots, now call Priestley worse than an atheist! The Christianity of Chillingworth is certainly not altogether in dogma, and not at all in spirit, the same with that of Horsley: but it is perfectly coincident, both in doctrine and spirit, with the Christianity of Locke and Clarke, of Watson and Paley. As long as the religion of the Gospel continues to be professed and defended in its own genuine spirit, by the greatest masters of human reason, it can neither be exposed by the scoffs of enemies, nor even endangered by the fury of pretended friends.”

“I was directed,” says Gibbon, “to the writings of Swift and Addison. Wit and simplicity are their common attributes; but the style of Swift is supported by manly original vigour; that of Addison is adorned by the female graces of elegance and mildness. The perfect composition, the nervous language, the well-turned periods of Dr. Robertson, inflamed me to the ambitious hope that I might one day tread in his footsteps. The calm philosophy, the careless inimitable beauties of his friend and rival, often forced me to close the volume with a mixed sensation of delight and despair.” Upon this passage in the *Memoirs of Gibbon* the reviewer makes the following observation :—

“The reader will not learn without wonder that Swift and Addison were among the earliest models on which our celebrated historian laboured to form his taste and style. If the composition of these writers continued to be the object of his imitation, the history of literature does not afford so striking an example of a man of such great talents so completely disappointed in his purpose. It may be observed that, even in the very act of characterising Swift and Addison, he has deviated not a little from the beautiful simplicity which is the peculiar distinction of those pure and classical writers. Nor can we think that Mr. Gibbon, however he may have in some measure emulated the historical merit, has exactly trodden in the literary footsteps of Dr. Robertson. Inferior, probably, to Mr. Gibbon, in the vigour of his powers; unequal to him, perhaps, in comprehension of intellect, and variety of knowledge; the Scottish historian has far surpassed him in simplicity and perspicuity of narration; in picturesque and pathetic description; in the sober use of

figurative language; and in the delicate perception of that scarcely discernible boundary which separates ornament from exuberance, and elegance from affectation. He adorns more chastely in addressing the imagination; he narrates more clearly for the understanding; and he describes more affectingly for the heart. The *defects* of Dr. Robertson arise from a less vigorous intellect; the *faults* of Mr. Gibbon from a less pure taste. If Mr. Gibbon be the greater man, Dr. Robertson is the better writer."

Hume said, in a letter to Gibbon, "Your use of the French tongue has led you into a style more poetical and figurative, and more highly coloured, than our language seems to admit of in historical composition: for such is the practice of the French writers, particularly the more modern ones, who illuminate their pictures more than custom will permit us." The following remarks of Sir J. Mackintosh, though perhaps not quite applicable to Gibbon, or quite just to the French writers of the age of Louis XV., are, in the abstract, most valuable, and profoundly just:—

"As France had attained, perhaps, somewhat sooner than Great Britain, the Augusta age of pure taste, so her degeneracy was proportionably more early. Those ingenious and happy turns of thought, which give an occasional and unaffected brilliancy to the productions of good writers, were pursued with such avidity, that the pages of French authors were crowded with showy conceits. That natural grandeur which belongs to the effusions of genius, betrayed a rabble of inferior writers into a perpetual effort, which produced nothing but a cold and insipid fustian. The passion for a degree of precision, perhaps greater than the freedom of popular discourse will admit, which is so natural in a speculative age, infected language with false refinement and fantastic subtilty. Even the variety and the extent of knowledge were injurious to taste; for it gave rise to allusions and similitudes drawn from sciences which must ever be inaccessible to the majority of readers, and thus produced a deviation from that address to the universal sentiments and sympathy of mankind, which is an indispensable quality of good writing. Style became an art instead of a talent, and lost its value because it might be used without genius. The ornaments of composition, when they appear to be suggested by the occasion, and to flow from the imagination of the writer, are natural and charming; but, when they are perpetually repeated, they are viewed with indifference, and even with disgust, as the easy tricks of a rhetorician. In this stage of literary progress, the ear, rendered fastidious by the music of those finished periods which are artfully scattered throughout classical compositions, requires an effeminate preference of sound to energy and meaning, and produces a monotonous cadence, destructive of that very harmony to which so many other excellencies are sacrificed. Such is the progress, perhaps the inevitable progress, to which the literature of nations is subjected; and such are some of the faults, which, to the simple and austere taste of Mr. Hume, probably appeared to have infected, in some degree, the composition of Mr. Gibbon."

When Sir James Mackintosh wrote those observations, the age of Louis XIV. had an undisputed pre-eminence in French litera-

ture. The French writers of the succeeding epoch were charged with degeneracy and false taste, compared with their immediate predecessors. This depreciation of the age of Louis XV. may be ascribed to the writers themselves who figured in it. Voltaire, and the other men of genius, whose works constitute its literature, exalted their predecessors from generous admiration; the meaner multitude of scribblers, from envy of contemporary fame; and Europe took its tone from the universal voice of France. The share which the French philosophers of the eighteenth century were supposed to have in preparing the Revolution, increased the tendency to exalt an age in which genius prostrated itself with the same blind obedience before the altar and the throne. The high Protestant alarmists for social order in England forgot that the loyalty of that age in France was slavery, and its devotion idolatry. Even the antipathies of religion will give way, for a moment, to some other passion or interest still more grovelling. But opinion has been re-adjusted in France, and in other countries; a higher range and greater compass of intellect are conceded to the age of Louis XV.; and its writers are commended, not censured, for giving freedom and variety to French style. It is assuredly a merit, not a vice, in the literature of an age, to have produced, at the same time, the pure and perfect masterpieces of Voltaire, the redundant and impassioned eloquence of Rousseau, the style, emphatically so called, of Buffon, the sententious vigour and brilliant contrasts of Montesquieu. It is easy to impute vicious taste to Montesquieu or Gibbon; but there are few readers, competent to appreciate them, who would not hesitate before they indulged the wish that either the "Spirit of Laws," or the "Decline and Fall of the Roman Empire," had been written in another style. This age, it is true, produced the glittering fustian of Thomas; but that of Louis XIV. had its Pradons and Cottins. The only pre-eminence of the boasted reign of Louis XIV. is in the drama. Corneille and Racine have found a rival, rather than an equal, in Voltaire; and Molière stands alone in unapproached supremacy.

Sir James Mackintosh, in 1797, put forth the prospectus of a course of lectures to be delivered by him on the Law of Nature and Nations. His object may have been to exercise his faculties on a subject which should bring him profit and fame in a region beyond the strife and passions of political party. He had not the temperament of a tribune of the people:—"My nature, perhaps," says he,

in a letter written from India to the Baptist minister, Robert Hall, "would have been better consulted, if I had been placed in a quieter station, where speculation might have been my business, and visions of the fair and good my chief recreation." This distinctive constitutional peculiarity should not be omitted among the causes of what has been called his conversion. The *Vindiciæ Gallicæ* may have been the result of a transient access of enthusiasm, alien to his nature. A barrister of Lincoln's Inn, he requested the use of the Hall for the delivery of his lectures. He was still in the odour of Jacobinism with the Benchers, and they refused him the use of their Hall. Lord Rosslyn, then Chancellor, and Sir John Scott (Lord Eldon), Attorney General, signified their pleasure to the Benchers; and the latter, as might be expected, obsequiously complied. The liberality of the actual and future Chancellors has been opposed to the meanness of the Benchers. Lord Rosslyn and Sir John Scott may have been really more liberal, but they were also better informed. They knew well the change which had come over the mind of Mackintosh, and had no fear that the Hall of Lincoln's Inn would undergo the desecration of Jacobinism. He delivered and published, nearly at the same time, his introductory lecture. It obtained high, and universal, and merited praise. Members of the government were among his chief admirers and eulogists. Lords Rosslyn and Melville, Mr. Addington, Mr. Canning, and Mr. Pitt himself, wrote him letters of compliment. No course of lectures was remembered to have found an audience so distinguished. From twenty-five to thirty peers, double the number of commoners, and a crowd of the most learned and accomplished persons in the metropolis, were attracted to Lincoln's Inn Hall. The subject, however, was unattractive to an English auditory. The English have no taste for inquiries essentially speculative, which neither admit of demonstrative certainty nor practical results. If political economy has obtained some favour, it is only because it is associated with the wealth of nations and of individuals. Accordingly, the lectures of Sir James, though they continued to be praised, ceased to be followed. They can now be judged only by the opening lecture. It is equal in profound thought and range of information, superior, perhaps, in method and order, to any thing which he has produced. He begins with a somewhat sarcastic apology to the Bar for this unprofessional employment of his time and talents.

"I have always been unwilling to waste, in unprofitable inactivity, that leisure which the first years of my profession usually allow, and which diligent men, even with moderate talents, might often employ in a manner neither discreditable to themselves, nor wholly useless to others. Desirous that my own leisure should not be consumed in sloth, I anxiously looked about for some way of filling it up, which might enable me, according to the measure of my humble abilities, to contribute somewhat to the stock of general usefulness. I had long been convinced that public lectures, which have been used in most ages and countries, to teach the elements of almost every part of learning, were the most convenient mode in which these elements could be taught; that they were the best adapted for the important purposes of awakening the attention of the student, of abridging his labours, of guiding his enquiries, of relieving the tediousness of private study, and of impressing on his recollection the principles of science. I saw no reason why the Law of England should be less adapted to this mode of instruction, or less likely to benefit by it, than any other part of knowledge.

* * * * *

"It appeared to me that a course of lectures on another science closely connected with all liberal professional studies, and which had long been the subject of my own reading and reflection, might not only prove a most useful introduction to the Law of England, but might also become an interesting part of general study, and an important branch of the education of those who were not destined for the profession of the law. I was confirmed in my opinion by the assent and approbation of men, whose names, if it were becoming to mention them on so slight an occasion, would add authority to truth, and furnish some excuse even for error. Encouraged by their approbation, I resolved without delay to commence the undertaking, of which I shall now proceed to give some account; without interrupting the progress of my discourse by anticipating or answering the remarks of those who may, perhaps, sneer at me for a departure from the usual course of my profession, because I am desirous of employing in a rational and useful pursuit that leisure, of which the same men would have required no account, if it had been wasted on trifles, or even abused in dissipation."

After tracing, or rather glancing over, the origin and progress of the science up to the seventeenth century, he thus characterises its modern founder:—

"The reduction of the Law of Nations to a system was reserved for Grotius. It was by the advice of Lord Bacon and Peiresc, that he undertook this arduous task. He produced a work which we now, indeed, justly deem imperfect, but which is, perhaps, the most complete that the world has yet owed, at so early a stage in the progress of any science, to the genius and learning of one man. So great is the uncertainty of posthumous reputation, and so liable is the fame, even of the greatest men, to be obscured by those new fashions of thinking and writing, which succeed each other so rapidly among polished nations, that Grotius, who filled so large a space in the eye of his contemporaries, is now, perhaps, known to some of my readers only by name. Yet, if we fairly estimate both his endowments and his virtues, we may justly consider him as one of the most memorable men who have done honour to modern times. He combined the discharge of the most important duties of active and public life, with the attainment of that exact and various learning which is generally the portion only of the recluse student. He was distinguished as an advocate and a magistrate, and he composed the most

valuable works on the law of his own country; he was almost equally celebrated as an historian, a scholar, a poet, and a divine; a disinterested statesman, a philosophical lawyer, a patriot who united moderation with firmness, and a theologian who was taught candour by his learning. Unmerited exile did not damp his patriotism; the bitterness of controversy did not extinguish his charity. The sagacity of his numerous and fierce adversaries did not discover a blot on his character; and in the midst of all the hard trials and galling provocations of a turbulent political life, he never once deserted his friends when they were unfortunate, nor insulted his enemies when they were weak. In times of the most furious civil and religious faction he preserved his name unspotted, and he knew how to reconcile fidelity to his own party with moderation towards his opponents. Such was the man who was destined to give a new form to the Law of Nations, or rather to create a science, of which only rude sketches and indigested materials were scattered over the writings of those who had gone before him. By tracing the laws of his country to their principles, he was led to the contemplation of the law of nature, which he justly considered as the parent of all municipal law."

He next gives an admirable *coup d'œil* of the advantages which the jurists of the eighteenth had over those of the preceding century:—

"Nor is this the only advantage which a writer of the present age would possess over the celebrated jurists of the last century. Since that time, vast additions have been made to the stock of our knowledge of human nature. Many dark periods of history have since been explored. Many hitherto unknown regions of the globe have been visited and described by travellers and navigators not less intelligent than intrepid. We may be said to stand at the confluence of the greatest number of streams of knowledge, flowing from the most distant sources, that ever met at one point. We are not confined, as the learned of the last age generally were, to the history of those renowned nations who are our masters in literature. We can bring before us man in a lower and more abject condition than any in which he was ever before seen. The records have been partly opened to us of those mighty empires of Asia, where the beginnings of civilisation are lost in the darkness of an unfathomable antiquity. We can make human society pass in review before our mind, from the brutal and helpless barbarism of *Terra del Fuego*, and the mild and voluptuous savages of Otaheite, to the tame, but ancient and immovable, civilisation of China, which bestows its own arts on every successive race of conquerors,—to the meek and servile natives of Hindostan, who preserve their ingenuity, their skill, and their science through a long series of ages, under the yoke of foreign tyrants—to the gross and incorrigible rudeness of the Ottomans, incapable of improvement, and extinguishing the remains of civilisation among their unhappy subjects, once the most ingenious nations of the earth. We can examine almost every imaginable variety in the character, manners, opinions, feelings, prejudices, and institutions of mankind, into which they can be thrown, either by the rudeness of barbarism, or by the capricious corruptions of refinement, or by those innumerable combinations of circumstances, which, both in these opposite conditions, and in all the intermediate stages between them, influence or direct the course of human affairs. History, if I may be allowed the expression, is now a vast museum, in which specimens of every variety of human nature may be studied. From these great accessions to knowledge, lawgivers and statesmen, but, above all, moralists and political philosophers, may reap the most important

instruction. They may plainly discover, in all the useful and beautiful variety of governments and institutions, and under all the fantastic multitude of usages and rites which have prevailed among men, the same fundamental, comprehensive truths, the sacred master-principles which are the guardians of human society, recognised and revered (with few and slight exceptions) by every nation upon earth, and uniformly taught (with still fewer exceptions) by a succession of wise men, from the first dawn of speculation to the present moment. The exceptions, few as they are, will, on more reflection, be found rather apparent than real. If we could raise ourselves to that height from which we ought to survey so vast a subject, these exceptions would altogether vanish; the brutality of a handful of savages would disappear in the immense prospect of human nature, and the murmurs of a few licentious sophists would not ascend to break the general harmony. This consent of mankind in first principles, and this endless variety in their application, which is one among many valuable truths which we may collect from our present extensive acquaintance with the history of man, is itself of vast importance. Much of the majesty and authority of virtue is derived from their consent, and almost the whole of practical wisdom is founded on their variety."

He now prepares and invites his hearers and the reader by simplifying and defining the science of morals:—

"The being whose actions the law of nature professes to regulate, is man. It is on the knowledge of his nature that the science of his duty must be founded. It is impossible to approach the threshold of moral philosophy, without a previous examination of the faculties and habits of the human mind. Let no reader be repelled from this examination, by the odious and terrible name of *metaphysics*: for it is, in truth, nothing more than the employment of good sense in observing our own thoughts, feelings, and actions; and when the facts which are thus observed, are expressed, as they ought to be, in plain language, it is, perhaps, above all other sciences, most on a level with the capacity and information of the generality of thinking men. When it is thus expressed, (it requires no previous qualification, but a sound judgment, perfectly to comprehend it; and those who wrap it up in a technical and mysterious jargon, always give us strong reason to suspect that they are not philosophers, but impostors. Whoever thoroughly understands such a science, must be able to teach it plainly to all men of common sense. The proposed course will therefore open with a very short, and, I hope, a very simple and intelligible account of the powers and operations of the human mind. By this plain statement of facts, it will not be difficult to decide many celebrated, though frivolous, and merely verbal controversies, which have long amused the leisure of the schools, and which owe both their fame and their existence to the ambiguous obscurity of scholastic language. It will, for example, only require an appeal to every man's experience, to prove that we often act purely from a regard to the happiness of others, and are therefore social beings; and it is not necessary to be a consummate judge of the deceptions of language, to despise the sophistical trifler, who tells us, that, because we experience a gratification in our benevolent actions, we are therefore exclusively and uniformly selfish. A correct examination of facts will lead us to discover that quality which is common to all virtuous actions, and which distinguishes them from those which are vicious and criminal. But we shall see that it is necessary for man to be governed, not by his own transient and hasty opinion upon the tendency of every particular action, but by those fixed and unalterable rules which are the joint result of the impartial judgment, the natural feelings, and the embodied experience of mankind. The

authority of these rules is, indeed, founded only on their tendency to promote private and public welfare; but the morality of actions will appear solely to consist in their correspondence with the rule. By the help of this obvious distinction we shall vindicate a just theory, which, far from being modern, is, in fact, as ancient as philosophy, both from plausible objections, and from the odious imputation of supporting those absurd and monstrous systems which have been built upon it. Beneficial tendency is the foundation of rules, and the criterion by which habits and sentiments are to be tried; but it is neither the immediate standard, nor can it ever be the principal motive, of action. An action, to be completely virtuous, must accord with moral rules, and must flow from our natural feelings and affections, moderated, matured, and improved into steady habits of right conduct."

Having taken a general view of the subject, he states in detail the order and distribution which he proposes to follow, and concludes with a passage, which characterises him as a philosopher, and does honour to him as a man:—

"I know not whether a philosopher ought to confess, that in his enquiries after truth he is biassed by any consideration; even by the love of virtue. But I, who conceive that a real philosopher ought to regard truth itself chiefly on account of its subserviency to the happiness of mankind, am not ashamed to confess, that I shall feel a great consolation at the conclusion of these lectures, if, by a wide survey and an exact examination of the conditions and relations of human nature, I shall have confirmed but one individual in the conviction, that justice is the permanent interest of all men and of all commonwealths. To discover one new link of that eternal chain by which the Author of the universe has bound together the happiness and the duty of his creatures, and indissolubly fastened their interest to each other, would fill my heart with more pleasure than all the fame with which the most ingenious paradox ever crowned the most eloquent sophist.

"I shall conclude this discourse in the noble language of two great orators and philosophers, who have, in a few words, stated the substance, the object, and the result of all morality, and politics, and law.

"*'Nihil est quod adhuc de republicâ putem dictum, et quo possim longius progredi, nisi sit confirmatum, non modo falsum esse illud, sine injuriâ non posse, sed hoc verissimum, sine summâ justitiâ republicam regi non posse.'*—*Cic. Frag. lib. iii. de Repub.*

"*'Justice is itself the great standing policy of civil society; and any eminent departure from it, under any circumstances, lies under the suspicion of being no policy at all.'*—*Burke's Works, vol. iii. p. 207.*"

This course of lectures not only established his reputation, but opened a way for him to fortune. An under-secretaryship is said to have been proposed to him by Mr. Pitt. It is certain that Mr. Canning, who was his personal friend, called upon him with an offer of official patronage and place from the Minister. He declined the offer, it was said, from reluctance to sever himself so palpably from Mr. Fox. It may be thought strange that he, who rejected place from Pitt, should accept it from Addington; but it will pre-

sently appear that his refusal could not have been absolute, and that his name was placed upon the Minister's list among those who were to be provided for.

If his lectures propitiated the champions of social order, so called, they provoked the resentment of the more vehement of his early political friends. He appears to have avowed expressly that his political opinions had undergone a change, and he was reproached with it. His introductory lecture alone has been printed. Of the succeeding lectures, it is said that only the notes or heads from which he delivered them remain. There are no means of judging how far the lecturer on the law of nations disavowed the author of the "*Vindiciæ Gallicæ*." In the opening discourse, the following is the only passage which bears directly on the question. It must be confessed that his definition of liberty is not satisfactory, and that the development which follows has an air of vagueness, ambiguity, and compromise.

"I have already given the reader to understand that the description of liberty which seems to me the most comprehensive, is that of *security against wrong*. Liberty is therefore the object of all government. Men are more free under every government, even the most imperfect, than they would be if it were possible for them to exist without any government at all: they are more secure from wrong, *more undisturbed in the exercise of their natural powers, and therefore more free, even in the most obvious and the grossest sense of the word*, than if they were altogether unprotected against injury from each other. But, as general security is enjoyed in very different degrees under different governments, those which guard it most perfectly are, by way of eminence, called *free*. Such governments attain most completely the end which is common to all government. A free constitution of government, and a good constitution of government, are, therefore, different expressions for the same idea.

"Another material distinction, however, soon presents itself. In most civilised states, the subject is tolerably protected against gross injustice from his fellows, by impartial laws, which it is the manifest interest of the sovereign to enforce. But some commonwealths are so happy as to be founded on a principle of much more refined and provident wisdom. The subjects of such commonwealths are guarded not only against the injustice of each other, but (as far as human prudence can contrive) against oppression from the magistrate. Such states, like all other extraordinary examples of public or private excellence and happiness, are thinly scattered over the different ages and countries of the world. In them the will of the sovereign is limited with so exact a measure, that his protecting authority is not weakened. Such a combination of skill and fortune is not often to be expected, and indeed never can arise, but from the constant though gradual exertions of wisdom and virtue to improve a long succession of most favourable circumstances.

"There is, indeed, scarce any society so wretched as to be destitute of some sort of weak provision against the injustice of their governors. Religious institutions, favourite prejudices, national manners, have, in different countries, with unequal degrees of force, checked or mitigated the exercise of supreme power. The pri-

vileges of a powerful nobility, of opulent mercantile communities, of great judicial corporations, have, in some monarchies, approached more near to a control on the sovereign. Means have been devised, with more or less wisdom, to temper the despotism of an aristocracy over their subjects ; and, in democracies, to protect the minority against the majority, and the whole people against the tyranny of demagogues. But, in these unmixed forms of government, as the right of legislation is vested in one individual or in one order, it is obvious that the legislative power may shake off all the restraints which the laws have imposed on it. All such governments, therefore, tend towards despotism, and the securities which they admit against misgovernment are extremely feeble and precarious. The best security which human wisdom can devise, seems to be the distribution of political authority among different individuals and bodies, with separate interests and separate characters, corresponding to the variety of classes of which civil society is composed, each interested to guard their own order from oppression by the rest ; each also interested to prevent any of the others from seizing on exclusive, and therefore despotic, power ; and all having a common interest to co-operate in carrying on the ordinary and necessary administration of government. If there were not an interest to resist each other in extraordinary cases, there would not be liberty. If there were not an interest to co-operate in the ordinary course of affairs, there could be no government. The object of such wise institutions, which make the selfishness of governors a security against their injustice, is to protect men against wrong, both from their rulers and their fellows. Such governments are, with justice, peculiarly and emphatically called *free* ; and, in ascribing that liberty to the skilful combination of mutual dependence and mutual check, I feel my own conviction greatly strengthened by calling to mind, that in this opinion I agree with all the wise men who have ever deeply considered the principles of politics ; with Aristotle and Polybius, with Cicero and Tacitus, with Bacon and Machiavel, with Montesquieu and Hume.

“ To the weight of these great names, let me add the opinion of two illustrious men of the present age, as both their opinions are combined by one of them in the following passage :—‘ He,’ Mr. Fox, ‘ always thought any of the simple unbalanced governments bad : simple monarchy, simple aristocracy, simple democracy ; he held them all imperfect or vicious : all were bad by themselves : the composition alone was good. These had been always his principles, in which he agreed with his friend, Mr. Burke.’—*Mr. Fox on the Army Estimates*. 9th February, 1790.

“ In speaking of both these illustrious men, whose names I here join, as they will be joined in fame by posterity, which will forget their temporary differences in the recollection of their genius and their friendship, I do not entertain the vain imagination that I can add to their glory by any thing that I can say : but it is a gratification to me to give utterance to my feelings ; to express the profound veneration with which I am filled for the memory of the one, and the warm affection which I cherish for the other, whom no one ever heard in public without admiration, or knew in private life without loving.”

The secession of Mackintosh from the new, and his approximation to the old Whigs,—as the two divisions into which the party split were designated by Burke,—became daily more marked. He rebukes Priestley in a letter to Robert Hall, published in the life of that eloquent minister. “ I had,” he says, “ last night, a conversation about the sermon with Mr. Windham, at the Duchess of

Gordon's rout. He had recommended it to Lord Grenville, who seemed sceptical about any thing good coming from the pastor of a Baptist congregation. This, you see, is the unhappy impression which Priestley has made." That virtuous teacher of philosophy and freedom might surely dispense with the approbation, and disregard the censure, even of Lord Grenville. "I met," continues Sir James, in the same letter, "a combination in Ovid, the other day, which would have suited your sermon. Speaking of the human descendants of the giants, he says,—

—————Sed et illa propago
Contemptrix superûm sævæque avidissima cædis
Et violenta fuit. Scires e sanguine natos.

The union of ferocity with irreligion is agreeable to your reasoning."

It may be said that Sir James should not be judged rigorously by an effusion in a private letter, intended, perhaps, to minister in a harmless and kind spirit to the weakness of an author and a friend. But there are cited, in the same volume, as written by Sir James, two critical notices of the same sermon, in a spirit little consonant with the tolerant philosophy of his later, and the liberal zeal of his earlier, years. The first is from the "Monthly Review" for February, the second from the "British Critic" for August, 1800. In the former he denounces, with some moderation, a new sect of infidels, which, according to him, had arisen in that age, to revive and disseminate the detestable paradoxes which lay neglected in the forgotten volumes of Cardan and Spinoza. The following is the passage cited from the latter publication by the biographer of Robert Hall. The critic, it should be observed, is replying to Mr. Flower, editor of the Cambridge Chronicle, and author of strictures on the sermon which Mr. Hall had preached and published against "Modern Infidelity."

"Now, mark the conduct of this man. Mr. Hall, his townsman, and, as we understand, formerly his pastor, is well known to have lately published a most admirable sermon, in which he employed all the powers of reason, and all the vigour and splendour of eloquence, in displaying the abominable consequences of Atheism. 'The very head and front of his offending hath this extent, no farther.' His whole guilt consisted in this: that, being a minister of Christianity, he had the *illiberality* and cruelty to attack poor Atheism, and its meek and unbloody apostles, the amiable French republicans. For this great crime, the miserable scribbler attempts to raise a louder clamour against Mr. Hall, than has been raised against other dissenting ministers for renouncing their belief in God. Bishops may be libelled, kings may be slandered, all laws, human and divine, may be insulted and reviled,

but France and Atheism are sacred things, which, it seems, no Englishman, or, at least, no dissenting minister, is to attack with impunity—which he cannot reason against without having his character stigmatised as a time-server; *the warm language of his youth cited against his more mature opinions*; and all the prejudices of his sect, or even of his congregation, artfully inflamed against his good name, his professional usefulness, and, perhaps, his professional existence. The black and fell malignity which pervades this man's attack on Mr. Hall, raises it to a sort of diabolical importance, of which its folly, and ignorance, and vulgarity, cannot entirely deprive it. This must be our excuse for stooping so low as to examine it.

“ His first charge is, that Mr. Hall now speaks of the French Revolution in different language from that which he used in 1793. How many men have retained the same opinions on that subject? There may be some, and Mr. Benjamin Flower may be one; for there are men who have hearts too hard to be moved by crimes, or heads too stupid to be instructed by experience. The second accusation against Mr. Hall is, that he has imputed a great part of the horrors of the last ten years to the immoral, anti-social, and barbarising spirit of Atheism. Will this man deny, on principles of reason, that Atheism has such a tendency? If he does, what becomes of his pretended zeal for religion? Or will he, on the authority of experience, deny that Atheism has actually produced such effects? If he does, we refer him, not to Professor Robinson, or the Abbé Barruel, of whose labours he, as might be expected, speaks with real rancour and affected contempt; but to the works of Atheists and anarchists themselves, which he will think much better authority. Has he read the correspondence of Voltaire, of Diderot, of D'Alembert? Has he consulted any of the publications which have issued during the last ten years from the Paris press? Does he know that all the fanatical Atheists of Europe (and England is not free from this pest) almost publicly boast, that in thirty years no man in a civilised country will believe in God? Has he never heard that the miners of Cornwall were instigated to sell their clothes, in order to purchase the impious ravings of Tom Paine? or that they were gratuitously distributed among the people of Scotland, with such fatal effects, that a large body of that once religious people made a bonfire of their Bibles, in honour of the new apostle? Has he been informed that the London Corresponding Society (enlightened by the *Système de la Nature*, of which the translation was hawked in penny numbers at every stall in the metropolis) deliberated whether they ought not to uncitizen Tom Paine, for superstitiously professing *some* belief in the existence of God? DOES HE KNOW THAT THE SAME SOCIETY RESOLVED, THAT THE BELIEF OF A GOD WAS SO PERNICIOUS AN OPINION, AS TO BE AN EXCEPTION TO THE GENERAL PRINCIPLE OF TOLERATION? Does he perceive the mischievous and infernal art with which only Deism is preached to the deluded peasantry of Scotland, whilst Atheism is reserved for the more illuminated ruffians of London? ALL THIS, AND PROBABLY MUCH MORE, WE FEAR HE KNOWS BUT TOO WELL! Yet it is in the midst of these symptoms of a meditated revolt against all religion, and of bloody persecution practised wherever Atheists are strong, and projected where they are weak, against the Christian worship, and all its ministers of all sects and persuasions, that this man has the effrontery to make it a matter of accusation against Mr. Hall, that he exhorted nonconformists, *not to abandon their dissent*, but merely to unite their efforts with those of the church, in resisting the progress of Atheism. He, it seems, hates the church more than he loves religion. He has more zeal for dissent than for the belief of the existence of a Deity. His pious zeal would prefer slavery, under the disciples of *Condorcet* and *Volney*, to a temporary cooperation with the church which produced *Taylor* and *Barrow*! That such should be the sentiments of an obscure scribbler, is a matter of small moment; though, notwithstanding his complaints of the state of the press, this is the first time, since England was a nation, that any man would have dared to publish them.”

The defence of humanity and religion against infidelity and ferocity was worthy, but the style and temper here displayed were not worthy, of Sir James Mackintosh. It might have occurred, or been replied to him, that though the union of ferocity with irreligion may have been, to use his own words, "agreeable to the reasoning" of an alarmist of that period, the union of ferocity with fanaticism was much more congenial, frequent, and cruel; that the French philosophy of the eighteenth century, thus stigmatised by him with the imputation of an immoral, anti-social, barbarising spirit, and savage appetite for blood, expunged the torture from the criminal procedure,—persecution from the criminal jurisprudence of France,—and brought the French Protestants within the pale of Christian society. He should have remembered that the obloquy of irreligion was cast upon himself before he became reconciled to the self-called champions of the altar and the throne, and that mere railing, even where the reproach of infidelity may be well founded, is the resource of dispute usually employed by persons of mean capacity, and base nature.

But an able and complete reply to the reviewer of the "British Critic" is supplied by the author of the *Vindiciæ Galicæ*:—

"That the philosophers," says he, "did prepare the Revolution by their writings, it is the glory of its admirers to avow.

"What the speculative opinions of these philosophers were on remote and mysterious questions, is here of no importance. It is not as Atheists, or Theists, but as political reasoners, that they are to be considered in a political Revolution. All their writings on the subjects of metaphysics and theology are foreign to the question. If Rousseau has had any influence in promoting the Revolution, it is not by his *Letters from the Mountain*, but by his *Social Contract*. If Voltaire contributed to spread liberality in France, it was not by his *Philosophical Dictionary*, but by his 'Defences of Toleration.' The obloquy of their Atheism (if it existed) is personal; it does not belong to the Revolution; for that event could neither have been promoted nor retarded by abstract discussions of theology. *The supposition of their conspiracy for the abolition of Christianity is one of the most extravagant chimeras that ever entered the human imagination.* Let us grant their infidelity in the fullest extent. Their philosophy must have taught them that the passions, whether rational or irrational, from which religion arises, could be eradicated by no human power from the heart of man. Their incredulity must have made them indifferent what particular mode of religion might prevail. These philosophers were not the apostles of any new revelation that was to supplant the faith of Christ. They knew that the heart can on this subject bear no void, and they had no interest in substituting the Vedam, or the Koran, for the Gospel. They could have no reasonable motives to promote any revolution in the popular faith. Their purpose was accomplished when the priesthood was disarmed."

"Mr. Burke's remark on the English Free-thinkers is unworthy of him. It more resembles the rant by which priests inflame the languid bigotry of their fana-

tical adherents, than the calm, ingenuous and manly criticism of a philosopher and a scholar. Had he made extensive enquiries among his learned friends, he must have found many who read and admired Collins's incomparable tract on Liberty and Necessity. Had he looked abroad into the world, he would have found many who still read the philosophical works of Bolingbroke, not as philosophy, but as eloquent and splendid declamation. What he means by 'their successors,' I will not conjecture. I will not suppose that, with Dr. Hurd, he regards David Hume as 'a puny dialectician from the North!' yet it is hard to understand him in any other sense."

The angry tone, and apparent bigotry, of the former of these extracts, may be accounted for, and, in some degree, excused. Hall was his friend, and the case was his own. He, too, was charged with the dereliction of his principles: this irritated him; and sallies of temper, such as the foregoing, should be viewed, not as indicative of his disposition, but as examples of that infirmity from which the best constituted minds are not exempt.

Sir James sought practice at the bar, but obtained little in the Courts of Westminster. His business was chiefly before Parliamentary Committees. He no doubt performed the duties of counsel with ability, but his opportunities did not admit of his particularly distinguishing himself. A single speech, in a memorable case, brought him the reputation of being a forensic orator of the first order; and the translation of it, by Madame de Staël, into French, obtained him European celebrity. He deserved his celebrity, but his claim to be regarded as a master in the art of advocacy is more doubtful. It is necessary to refer for a moment to the occasion and merits of this applauded speech.

Bonaparte had become First Consul of the French republic, and made peace with England. Peltier, a French emigrant, and agent of the Bourbons, printed in London a French newspaper, called the "Ambigu," chiefly for the purpose of dissemination in France. It contained in the form of an ode, pretending to be written by Chenier, an instigation to assassinate the First Consul. He applied for redress to the government and laws of England: the Attorney-General filed a criminal information; and Peltier was brought to trial before Lord Ellenborough, in February, 1803. He selected Mackintosh for his leading counsel, in order to afford a splendid opportunity to a friend. It required the intrepidity of conscious talent, with Mackintosh's want of experience and station at the bar, to take this lead. The vast range of topics, and elaborate composition, prove that the advocate employed much time in prepa-

ration, and strained his faculties to the utmost. But for this, among other reasons, his speech is a failure as a piece of forensic oratory. The views are too ambitious ; the topics and the knowledge are vast and various, but sometimes irrelevant ; the eloquence is overwrought, and the rhetoric that rather of an essayist than of an orator. In his wide survey of the French Revolution, the consular government, and the state of Europe, with more than a due proportion of political philosophy and eloquent abstraction, he loses sight of his client and the case, and the jury of course lose sight of him. His speech is a dissertation, a tract, a splendid piece of political literature—any thing but a pleading. It wants the ingenious turns, the happy movements, the dexterous play upon the imagination or the passions, which distinguish the forensic artist. The following passages are selected to display the speaker's, or rather the writer's, talents,—not to illustrate these remarks. After passing the several states of Europe in review,—Holland, Switzerland, the Italian States, their past liberty and present thralldom,—he returns to England, and to Westminster Hall, with the inference—that the present was the first of a series of conflicts between the greatest power in the world and the only free press remaining in Europe. The passage is not only eloquent, but has a direct and dexterous bearing on the case, and is therefore one of the best in the speech.

“One asylum of free discussion is still inviolate. There is still one spot in Europe where man can freely exercise his reason on the most important concerns of society, where he can boldly publish his judgment on the acts of the proudest and most powerful of tyrants : the press of England is still free. It is guarded by the free constitution of our forefathers. It is guarded by the hearts and arms of Englishmen ; and I trust I may venture to say, that if it be to fall, it will fall only under the ruins of the British Empire.

“It is an awful consideration, gentlemen. Every other monument of European liberty has perished. That ancient fabric, which has been gradually reared by the wisdom and virtue of our fathers, still stands. It stands, thanks be to God ! solid and entire — but it stands alone, and it stands amidst ruins.

“In these extraordinary circumstances, I repeat, that I must consider this as the first of a long series of conflicts between the greatest power in the world, and the only free press remaining in Europe ; and I trust that you will consider yourselves as the advanced guard of liberty, as having this day to fight the first battle of free discussion against the most formidable enemy that it ever encountered. You will, therefore, excuse me, if, on so important an occasion, I remind you, at more length than is usual, of those general principles of law and policy on this subject, which have been handed down to us by our ancestors.”

A long, able, and irrelevant dissertation follows. The orator comes to the French Revolution.

“Gentlemen, the French Revolution—I must pause, after I have uttered words which present such an overwhelming idea. But I have not now to engage in an enterprise so far beyond my force as that of examining and judging that tremendous revolution. I have only to consider the character of the factions which it must have left behind it:—the French Revolution began with great and fatal errors. These errors produced atrocious crimes. A mild and feeble monarchy was succeeded by bloody anarchy, which very shortly gave birth to military despotism. France, in a few years, described the whole circle of human society.

“All this was in the order of nature:—when every principle of authority and civil discipline, when every principle which enables some men to command and disposes others to obey was extirpated from the mind by atrocious theories, and still more atrocious examples; when every old institution was trampled down with contumely, and every new institution covered in its cradle with blood; when the principle of property itself, the sheet-anchor of society, was annihilated; when, in the persons of the new possessors, whom the poverty of language obliges us to call proprietors, it was contaminated in its source by robbery and murder, and it became separated from that education and those manners, from that general presumption of superior knowledge and more scrupulous probity, which form its only liberal titles to respect; when the people were taught to despise every thing old, and compelled to detest every thing new, there remained only one principle strong enough to hold society together—a principle utterly incompatible, indeed, with liberty, and unfriendly to civilisation itself—a tyrannical and barbarous principle, but, in that miserable condition of human affairs, a refuge from still more intolerable evils—I mean the principle of military power, which gains strength from that confusion and bloodshed in which all the other elements of society are dissolved, and which, in these terrible extremities, is the cement that preserves it from total destruction.

“Under such circumstances, Bonaparte usurped the supreme power in France. I say *usurped*, because an illegal assumption of power is an usurpation. But usurpation, in its strongest moral sense, is scarcely applicable to a period of lawless and savage anarchy. The guilt of military usurpation, in truth, belongs to the authors of those confusions which sooner or later give birth to such an usurpation.”

It is obvious that the advocate of Peltier retained of the author of the *Vindiciæ* only his talent. No licence of advocacy will account for opposition so violent and complete, without a complete change of principles, or it may be more fair to say, of opinions. The speaker delivers himself not with the reserve, management, and adroitness of a mere advocate acting a part, but with studious, elaborate, and gratuitous ostentation. He travels out of the road; he digresses, dilates, and exaggerates like one making a profession of faith, of which the sincerity might be suspected, because it was not always his:—

“In a word, gentlemen, the great body of the people of France have been severely trained in those convulsions and proscriptions, which are the school of

slavery. They are capable of no mutinous, and even of no bold and manly political sentiments. And if this Ode professed to print their opinions, it would be a most unfaithful picture. But it is otherwise with those who have been the actors and leaders in the scene of blood ; it is otherwise with the numerous agents of the most indefatigable, searching, multiform, and omnipresent tyranny that ever existed, which pervaded every class of society, which had ministers and victims in every village in France.

“Some of them, indeed—the basest of the race—the Sophists, the Rhetors, the Poet-laureats of murder—who were cruel only from cowardice and calculating selfishness, are perfectly willing to transfer their venal pens to any government that does not disdain their infamous support. These men, republicans from servility, who published rhetorical panegyrics on massacre, and who reduced plunder to a system of ethics, are as ready to preach slavery as anarchy. But the more daring—I had almost said the more respectable—ruffians cannot so easily bend their heads under the yoke. These fierce spirits have not lost ‘the unconquerable will, the study of revenge, immortal hate.’ They leave the luxuries of servitude to the mean and dastardly hypocrites, to the Belials and Mammons of the infernal faction. They pursue their old end of tyranny under their old pretext of liberty. The recollection of their unbounded power renders every inferior condition irksome and vapid, and their former atrocities form, if I may so speak, a sort of moral destiny which irresistibly impels them to the perpetration of new crimes. They have no place left for penitence on earth ; they labour under the most awful proscription of opinion that ever was pronounced against human beings. They have cut down every bridge by which they could retreat into the society of men. Awakened from their dreams of democracy, the noise subsided that deafened their ears to the voice of humanity—the film fallen from their eyes which hid from them the blackness of their own deeds,—haunted by the memory of their inextinguishable guilt—condemned daily to look on the faces of those whom their hands made widows and orphans—they are goaded and scourged by these real furies, and hurried into the tumult of new crimes, which will drown the cries of remorse ; or, if they be too depraved for remorse, will silence the curses of mankind. Tyrannical power is their only refuge from the just vengeance of their fellow-creatures ; murder is their only means of usurping power. They have no taste, no occupation, no pursuit, but power and blood. If their hands are tied, they must at least have the luxury of murderous projects. They have drunk too deeply of human blood ever to relinquish their cannibal appetite. Such a faction exists in France.

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“I have used the word *republican*, because it is the name by which this atrocious faction describes itself. The assumption of that name is one of their crimes. They are no more republicans than royalists ; they are the common enemies of all human society. God forbid, that, by the use of that word, I should be supposed to reflect on the members of those respectable republican communities which did exist in Europe before the French Revolution ! That revolution has spared many monarchies, but it has spared no republic within the sphere of its destructive energy. One republic only now exists in the world—a republic of English blood, which was originally composed of republican societies, under the protection of a monarchy, which had therefore no great and perilous change in their internal constitution to effect, and of which (I speak it with pleasure and pride) the inhabitants, even in the convulsions of a most deplorable separation, displayed humanity as well as valour, which, I trust, I may say they inherited from their forefathers.

“Nor do I mean by the use of the word ‘republican,’ to confound this execrable faction with all those who, in the liberty of private speculation, may prefer a re-

publican form of government. I own, that, after much reflection, I am not able to conceive an error more gross than that of those who believe in the possibility of erecting a republic in any of the old monarchical countries of Europe, who believe that in such countries an elective supreme magistracy can produce any thing but a succession of stern tyrannies and bloody civil wars. It is a supposition which is belied by all experience, and which betrays the greatest ignorance of the first principles of the constitution of society. It is an error which has a false appearance of superiority over vulgar prejudice; it is therefore too apt to be attended with the most criminal rashness and presumption, and too easy to be inflamed into the most immoral and anti-social fanaticism. But as long as it remains a mere quiescent error, it is not the proper subject of moral disapprobation."

Having taken once more a vigorous flight over history, and paused upon its leading epochs,—the reigns and characters of Elizabeth, of Louis XIV., of William III.; the invasion of Holland, the peace of Ryswick, the partition of Poland,—he returns to the case, and approaches the close.

"I am aware, gentlemen, that I have already abused your indulgence, but I must entreat you to bear with me for a short time longer, to allow me to suppose a case which might have occurred, in which you will see the horrible consequences of enforcing rigorously principles of law, which I cannot contest against political writers. We might have been at peace with France during the whole of that terrible period which elapsed between August, 1792, and 1794, which has been usually called the reign of Robespierre! The only series of crimes, perhaps, in history, which, in spite of the common disposition to exaggerate extraordinary facts, has been beyond measure underrated in public opinion. I say this, gentlemen, after an investigation which I think entitles me to affirm it with confidence. Men's minds were oppressed by the atrocity and the multitude of crimes; their humanity and their indolence took refuge in scepticism from such an overwhelming mass of guilt; and the consequence was, that all these unparalleled enormities, though proved, not only with the fullest historical, but with the strictest judicial evidence, were at the time only half believed, and are now scarcely half remembered. When these atrocities were daily perpetrating, of which the greatest part are as little known to the public in general as the campaigns of Genghis Khan, but are still protected from the scrutiny of men by the immensity of those voluminous records of guilt in which they are related, and under the mass of which they will lie buried, till some historian be found with patience and courage enough to drag them forth into light, for the shame, indeed, but for the instruction of mankind; when these crimes were perpetrating—crimes which had the peculiar malignity, from the pretexts with which they were covered, of making the noblest objects of human pursuit seem odious and detestable—which had almost made the names of liberty, reformation, and humanity, synonymous with anarchy, robbery, and murder—which thus threatened not only to extinguish every principle of improvement, to arrest the progress of civilised society, and to disinherit future generations of that rich succession which they were entitled to expect from the knowledge and wisdom of the present, but to destroy the civilisation of Europe, which never gave such a proof of its vigour and robustness as in being able to resist their destructive power:—when all these horrors were acting in the greatest empire of the Continent, I will ask my learned friend, if we had then been at peace with France, how English writers were to relate them so as to escape the charge of libelling a friendly government?

“When Robespierre, in the debates in the National Convention on the mode of murdering their blameless sovereign, objected to the formal and tedious mode of murder called a trial, and proposed to put him immediately to death without trial, ‘*on the principles of insurrection*,’ because, to doubt the guilt of the king would be to doubt of the innocence of the Convention, and if the king were not a traitor, the Convention must be rebels; would my learned friend have had an English writer state all this with ‘*decorum and moderation*?’ would he have had an English writer state, that though this reasoning was not perfectly agreeable to our national laws, or perhaps to our national prejudices, yet it was not for him to make any observations on the judicial proceedings of foreign states?”

“When Marat, in the same Convention, called for 270,000 heads, must our English writers have said, that the remedy did, indeed, seem to their weak judgment rather severe; but that it was not for them to judge the conduct of so illustrious an assembly as the National Convention, or the suggestions of so enlightened a statesman as M. Marat?”

“When that Convention resounded with applause at the news of several hundred aged priests being thrown into the Loire, and particularly at the exclamation of Carrier, who communicated the intelligence, ‘*what a revolutionary torrent is the Loire!*’—when these suggestions and narratives of murder, which have hitherto been only hinted and whispered in the most secret cabals, in the darkest caverns of banditti, were triumphantly uttered, patiently endured, and even loudly applauded by an assembly of 700 men, acting in the sight of all Europe—would my learned friend have wished that there had been found in England a single writer so base as to deliberate upon the most safe, decorous, and polite manner of relating all these things to his countrymen?”

“When Carrier ordered 500 children under fourteen years to be shot, the greater part of whom escaped the fire from their size—when the poor victims ran for protection to the soldiers, and were bayoneted clinging round their knees, would my friend—but I cannot pursue the strain of interrogation—it is too much! it would be a violence which I cannot practise on my own feelings—it would be an outrage to my friend—it would be an affront to you—it would be an insult to humanity. No; better, ten thousand times better, would it be that every press in the world were burnt, that the very use of letters were abolished, that we were returned to the honest ignorance of the rudest times—than that the results of civilisation should be made subservient to the purposes of barbarism,—than that literature should be employed to teach a toleration for cruelty, to weaken moral hatred for guilt, to deprave and brutalise the human mind. I know that I speak my friend’s feelings as well as my own, when I say, God forbid that the dread of any punishment should ever make any Englishman an accomplice in so corrupting his countrymen—a public teacher of depravity and barbarity!”

It may be remarked that hitherto he has passed by the period of the Commonwealth and Protectorate. He reserved Cromwell for his conclusion, and concludes with him as follows:—

“In the court where we are now met, Cromwell twice sent a satirist on his tyranny to be convicted and punished as a libeller, and in this court, almost in sight of the scaffold streaming with the blood of his sovereign, within hearing of the clash of his bayonets, which drove out parliaments with contumely, two successive juries rescued the intrepid satirist* from his fangs, and sent out with

* Colonel Lilburne.

defeat and disgrace the usurper's Attorney-General from what he had the insolence to call *his* court; even then, gentlemen, when all law and liberty were trampled under the feet of military banditti; when those great crimes were perpetrated on a high place and with a high hand against those who were the objects of public veneration, which, more than any thing else upon earth, overwhelm the minds of men, break their spirits, and confound their moral sentiments, obliterate the distinctions between right and wrong in their understanding, and teach the multitude to feel no longer any reverence for that justice which they thus see triumphantly dragged at the chariot wheels of a tyrant;—even then, when this unhappy country, triumphant indeed abroad, but enslaved at home, had no prospect but that of a long succession of tyrants wading through slaughter to a throne;—even then, I say, when all seemed lost, the unconquerable spirit of English liberty survived in the hearts of English jurors. That spirit is, I trust in God, not extinct; and if any modern tyrant were, in the drunkenness of his insolence, to hope to overawe an English jury, I trust and I believe that they would tell him, ‘Our ancestors braved the bayonets of Cromwell; we bid defiance to yours. *Contempsi Catilinæ gladios; non pertimescam tuos!*’”

This short and vigorous passage, pointed by a classic quotation, and elevated by classic recollections, has been regarded as the happiest movement of the speech. But there appears a fatal deficiency in the citation and the parallel:—it is the want of application. Had the advocate told the jury, in plain English, that they and he were defying poniards or bayonets, they would have stared or laughed—and, pleading as the advocate of an apostle of assassination, he talked of defying assassins with a bad grace. Peltier was found guilty; but the war was soon renewed, and he was never called up for judgment.

This celebrated oration should be classed among the political writings of Sir James Mackintosh. It would form an interesting, as well as curious, pendant to the *Vindiciæ Gallicæ*. The reader, viewing the same objects and epochs represented under phases of such complete opposition, finds it almost impossible to imagine the personal identity of the writer with the speaker; whilst he, at the same time, discovers in every page the identity of style and faculty.

Sir James Mackintosh was now removed to a new and distant scene. It is necessary to revert for a moment to some incidents in his private life. He was visited by the severest domestic affliction in 1797. His wife died in the month of April of that year. It would imply an equal want of discretion and taste to say one word of her character and his grief in the same page with the following letter, written on the occasion by himself. It is addressed to Dr. Parr.

“I use the first moment of composure to return my thanks to you for having thought of me in my affliction. It was impossible

for you to know the bitterness of that affliction; for I, myself, scarce knew the greatness of my calamity till it had fallen upon me; nor did I know the acuteness of my own feelings till they had been subjected to this trial. Alas! it is only now that I feel the value of what I have lost. In this state of deep but quiet melancholy, which has succeeded to the first violent agitations of sorrow, my greatest pleasure is to look back with gratitude and pious affection on the memory of my beloved wife; and my chief consolation is the soothing remembrance of her virtues. Allow me, in justice to her memory, to tell you what she was, and what I owed her. I was guided in my choice only by the blind affection of my youth, and might have formed a connexion in which a short-lived passion would have been followed by repentance and disgust; but I found an intelligent companion, a tender friend, a prudent monitress; the most faithful of wives, and as dear a mother as ever children had the misfortune to lose. Had I married a woman who was easy or giddy enough to have been infected by my imprudence, or who had rudely and harshly attempted to correct it, I should, in either case, have been irretrievably ruined: a fortune, in either case, would, with my habits, have been only a shorter cut to destruction. But I met a woman, who by the tender management of my weaknesses gradually corrected the most pernicious of them, and rescued me from the dominion of a degrading and ruinous vice. She became prudent from affection; and, though of the most generous nature, she was taught economy and frugality by her love for me. During the most critical period of my life, she preserved order in my affairs, from the care of which she relieved me; she gently reclaimed me from dissipation; she propped my weak and irresolute nature; she urged my indolence to all the exertions that have been useful and creditable to me; and she was perpetually at hand to admonish my heedlessness and improvidence. To her I owe that I am not a ruined outcast; to her whatever I am; to her whatever I shall be. In her solicitude for my interest, she never, for a moment, forgot my feelings or my character. Even in her occasional resentment,—for which I but too often gave just cause (would to God that I could recall these moments!), she had no sullenness or acrimony: her feelings were warm and impetuous, but she was placable, tender, and constant: she united the most attentive prudence with the most generous and guileless nature, with a spirit that disdained the shadow of meanness, and with the kindest and most honest heart.

Such was she whom I have lost; and I have lost her when her excellent natural sense was rapidly improving, after eight years of struggle and distress had bound us fast together, and moulded our tempers to each other; when a knowledge of her worth had refined my youthful love into friendship, before age had deprived it of much of its original ardour. I lost her, alas! (the choice of my youth and the partner of my misfortunes) at a moment when I had the prospect of her sharing my better days. This, my dear Sir, is a calamity which the prosperity of the world cannot repair. To expect that any thing on this side of the grave can make it up, would be a vain and a delusive expectation. If I had lost the giddy and thoughtless companion of prosperity, the world could easily repair the loss; but I have lost the faithful and tender partner of my misfortunes; and my only consolation is in that Being under whose severe but paternal chastisement I am cut down to the ground. The philosophy which I have learned only teaches me that virtue and friendship are the greatest of human blessings, and that their loss is irreparable. It aggravates my calamity, instead of consoling me under it. My wounded heart seeks another consolation; governed by these feelings, which have, in every age and region of the world, actuated the human mind, I seek relief and I find it in the soothing hope and consolatory opinion, that a benevolent wisdom inflicts the chastisement, as well as bestows the enjoyments of human life; that superintending goodness will one day enlighten the darkness which surrounds our nature, and hangs over our prospects; that this dreary and wretched life is not the whole of man; that an animal so sagacious and provident, and capable of such proficiency in science and virtue, is not like the beasts that perish; that there is a dwelling place prepared for the spirits of the just; and that the ways of God will yet be vindicated to man. The sentiments of religion which were implanted in my mind in my early youth, and which were revived by the awful scenes which I have seen passing before my eyes in the world, are, I trust, deeply rooted in my heart by this great calamity. I shall not offend your rational piety by saying that modes and opinions appear to me matter of secondary importance; but I can sincerely declare, that Christianity, in its genuine purity and spirit, appears to me the most amiable and venerable of all the forms in which the homage of man has ever been offered to the Author of his being. These sentiments have served somewhat to tran-

quillise me since I have been in this place (which is at present solitary enough for the state of my spirits), and will, I trust, soon enable me to resume my exertions in active life, which I owe to the hapless children of my dearest Catherine, and which I am fully sensible will be a truer performance of the sacred duty which I owe to her memory, than vain and barren lamentation. You will not wonder that I sometimes find a pleasing employment for my mind in thinking of those honours which are due to the memory of her whom I have lost. I have given directions for a marble tablet, on which it is my wish to inscribe a humble testimonial of her virtues; but I am divided in opinion whether the inscription shall be in Latin or English. English seems more unostentatious and more suitable to her sex, but Latin is better adapted to inscription, and I think it difficult to compose an English inscription, which shall be simple enough, without being meagre. I could judge better if I saw the attempt made in both languages. I shall myself try it in English. Will you, my dear Sir, send me a sketch of a Latin inscription? It is a thing of great moment in the hour of my affliction, and I hope you will not refuse to aid me in this labour of love. If I fix on the English, I shall send it to you for correction. The topics are so obvious that I need not suggest them: her faithful and tender discharge of the duties of a wife and a mother, my affliction, the irreparable loss to her orphans; these are the topics, with a solemn colouring of religion given to the whole. I cannot suppress my desire to expatiate on her worth, at greater length than may, perhaps, be consistent with the severe simplicity of a classical inscription; yet my feelings are too sincere to relish any thing rhetorical or ostentatious."

"I never," says Dr. Parr, in reply, "received from mortal man a letter which, in point of composition, can be compared with that which you wrote me the other day; and were you to read it yourself at some very remote period, you would be charmed with it as I have been, and you would say, as Cicero did of his work *De Senectute*, '*Ipse, mea legens, sic afficior interdum, ut Catonem, non me, loqui existimem.*' I have myself sometimes experienced a similar effect from the less exceptionable parts of my own writing, long after their publication. I have read them as if they were the production of some other man, and the delight they give me in this calm and ripened state of the mind, is far more exquisite than the confused and tumultuous joy which I feel in the first ardour of

composition. But I have to tell you, Sir, and it is with sincerity I tell you, that some of the impressions made by your letter are of a much higher order than the pleasures of taste. You have written seriously upon a serious event; you have ascended to the highest tone of thinking, and, expressing your thoughts upon subjects of the highest moment, to the highest capacities of our rational moral nature. You did not offend what is rational in my piety; you seized upon the sympathies of all that is ardent in my love or sincere in my veneration of that Almighty and Omniscient Being by whom we are made to listen, not to the deceitful suggestions of that cold and crooked philosophy which would impute this effect to the infirmity of man. It flows from a purer and a nobler source; it is the result of those calm and profound reflections by which we pass through difficulties to probability, through anxiety to hope, through a sense of our imperfect faculties to a sense of our indispensable duty.

“My opinion is, that an inscription, such a one, I mean, as would be most worthy of your character, most adapted to your feelings, and most satisfactory to your ultimate judgment, calls for the use of the Latin language. You know my sentiments, and from mine you probably have borrowed some of your own on the best form of epitaphs. The person of whom we are to speak was your wife, and the mother of your children. Let us speak of her with tenderness, with simplicity, and with dignity. Let us say that which scholars ought to say for the perusal of scholars. Tell me the day and year of her birth and her death; the place of both; her age, the number of children, her Christian name, and the cause which removed her from this lower world. I will write the Latin, and in the meantime you may try your strength in English; and then, after the honest and consolatory feeling we shall have in this office, we shall make our choice of what is best, without any alloy of blind and childish partiality for what is our own.”

The following epitaph, written by Parr, is inscribed on a marble tablet in the south-west staircase of St. Clement's Church, in the Strand, where Mrs. Mackintosh was buried.

CATHARINAE · MACKINTOSH
 FEMINAE · PVDICAE · FRVGI · PIAE
 MATRIFAMILIAS
 VIRI · TRIVM · QVE · FILIARVM
 QVOS · SVPERSTITES · SVI · RELIQVIT
 AMANTISSIMAE
 VIXIT · ANN · XXXII · MENS · XI · DIEB · XXI
 FECIT · CVM · MARITO · ANN · VIII · MENS · I · DIEB · XXI
 DECESSIT · SEXTO · ID · APRIL · ANNO · SACRO
 M · DCC · XCVII
 IACOBVS · MACKINTOSH
 H · M · CON · B · M · P
 SPERANS · HAVD · LONGINQVVM
 INTER · SE · ET · CATHARINAM · SVAM
 DIGRESSVM · FORE
 SIQVIDEM · VITAM · NOBIS · COMMORANDI · DIVERSORIVM
 NON · HABITANDI
 DEVS · IMMORTALIS · DEDIT

Sir James, having remained about two years a widower, married Miss Allen, the daughter of a gentleman residing in Pembrokeshire. His income, professional and literary, was precarious. To secure a more steady and permanent provision for his family, he became a shareholder in the property of the Morning Post, and engaged to write in it at a yearly salary.

The conversion, or the moderation of Sir James Mackintosh, brought him into communication and favour with the Minister and his friends. Mr. Pitt, it has been stated, offered, through Mr. Canning, to provide for him; and his refusal of the offer, it has been also suggested, could not have been decisive. Mr. Pitt went out of office, ostensibly because he was unable to redeem his promise of emancipation to the Catholics, and was succeeded by Mr. Addington, in 1801. His retirement was said to be a confederate juggle between himself and his successor, in order that the latter might conclude with the French Republic a peace which had become necessary, but which he could not himself conclude without humiliation. Sheridan, drawing, as he professed, upon the Greek scholiast, but in point of fact appropriating somewhat unscrupulously, as it has since appeared, both the reading and its application from another, said that Pitt went out of office leaving his sitting part behind him on the Treasury bench. It is certain that there was a good understanding between the retiring Minister and his successor;

and Canning, who went out with Pitt, obtained from him, on his retirement, a written request or memorandum to the new Minister to provide for Mackintosh. Mr. Addington, from want of opportunity or inclination, did not immediately comply with the recommendation of his predecessor. Hostilities with France were renewed in 1803; the war and its policy were vindicated by Mackintosh, in the columns of the *Morning Post*; and the Minister, now more sensible of his merit, offered him the vacant recordership of Bombay. This appointment, with its emolument and honour, must yet have been regarded by him as a check and limit in the career of his ambition and fame. It removed him from the European community of men of letters, among whom he had taken his place; and from that first object in England to every man of popular talent and aspiring, the House of Commons. But his want of fortune, his embarrassments, the necessity of present and duty of future maintenance for his numerous and young family, the equivocal position in which he stood between the two great political parties which then divided opinion in England and in Europe, the neutral character of a judicial office; all these considerations prevailed with him. India, too, with her variety of religions, manners, races, languages, her arts of civilization, and her barriers against its progress, presented a rich and wide field to his love of knowledge, speculative temper, and benevolent philosophy. He had before him the fresh example of Sir William Jones, whose name was not the less celebrated in Europe because Asia was the object and the theatre of his studies.

Sir James Mackintosh, having received his appointment, and what is called the honour of knighthood, sailed from England in January, and arrived at Bombay early in June, 1804. His judicial duties could occupy but a small portion of his time. His projects were comprehensive and various for the civilisation of India, and the instruction of Europe. It is easy to trace, in his life and writings at this period, that he took Sir William Jones for his model, or for an object of generous emulation. But he was constitutionally indolent in the vigour of his youth, in his native clime, and amidst the stirring elements of commotion, social and political. Under the influence of a distant and relaxing climate, with delicate health, and his habitual love of quiet, his mind appears to have been unstrung. There are visible the outlines of beneficent projects and sagacious designs; but there is nothing achieved worthy the rival

of Sir William Jones. He was superior to Sir William, in the endowments and acquirements of a moral philosopher, but he wanted the activity and industry, the spirit of literature in matters of taste and imagination, the graces of scholarship, the promptitude and facility in acquiring and communicating knowledge, of that accomplished person. Sir James did not, like him, master, or even acquire a tincture of, the Eastern languages; he was, of course, a stranger to Eastern literature; he was not what is affectedly, but expressively, called an Orientalist, and was thus barred at the threshold of Eastern enquiry.

A literary society had been instituted at Calcutta, under the auspices of Sir William Jones. One of the first acts of Sir James Mackintosh in India was to establish a similar society at Bombay. He was its founder, and continued its honorary President from his return to Europe to his death. The object of this society may be collected from the following passage of his inaugural oration:—

“The smallest society brought together by the love of knowledge is respectable in the eye of reason, and the feeble efforts of infant literature in barren and inhospitable regions are in some respects more interesting than the most elaborate works and the most successful exertions of the human mind: they prove the diffusion, at least, if not the advancement, of science; and they afford some sanction to the hope that knowledge is destined one day to visit the whole earth, and in her beneficent progress to illuminate and humanise the whole race of man.

“It is, therefore, with singular pleasure, that I see a small but respectable body of men assembled here by such a principle. I hope that we agree in considering all Europeans, who visit remote countries, whatever their separate pursuits may be, as detachments from the main body of civilised men, sent out to levy contributions of knowledge, as well as to gain victories over barbarism.

“When a large portion of a country so interesting as India fell into the hands of one of the most intelligent and inquisitive nations of the world, it was natural to expect that its ancient and present state should at least be fully disclosed. These expectations were, indeed, for a time, disappointed: during the tumult of revolution and war, it would have been unreasonable to have entertained them; and when tranquillity was established in that country which continues to be the centre of the British power in Asia, it ought not to have been forgotten, that every Englishman was fully occupied by commerce, by military service, or by administration; that we had among us no idle public of readers, and consequently no separate profession of writers, and that every hour bestowed on study was to be stolen from the leisure of men often harassed by business, enervated by the climate, and more disposed to seek amusement than new occupation in the intervals of their appointed toils. It is, besides, a part of our national character, that we are seldom eager to display, and not always ready to communicate what we have acquired. In this respect we differ considerably from other lettered nations: our ingenious and polite neighbours on the Continent of Europe, to whose enjoyment the applause of others seems more indispensable; whose faculties are more nimble and restless, if not more vigorous than ours; are neither so patient of repose, nor so likely to be contented by a secret

hoard of knowledge: they carry, even into their literature, a spirit of bustle and parade; a bustle, indeed, which springs from activity, and a parade which animates enterprise; but which are incompatible with our sluggish and sullen dignity. Pride disdains ostentation, scorns false pretension, despises even petty merit, refuses to obtain the objects of pursuit by flattery or importunity, and scarcely values any praise but that which she has the right to command: that pride with which foreigners charge us, and which, under the name of a sense of dignity, we claim for ourselves, is a lazy and unsocial quality; and in these respects, as in most others, the very reverse of the sociable and good-humoured vice of vanity. It is not, therefore, to be wondered at, if in India our national character, co-operating with local circumstances, should have produced some real, and, perhaps, more apparent inactivity in working the mine of knowledge, of which we had become the masters. Yet some of the earliest exertions of private Englishmen are too important to be passed over in silence. The compilation of laws by Mr. Halhed, and the *Ayeen Akbaree*, translated by Mr. Gladwin, deserve honourable mention. Mr. Wilkins gained the memorable distinction of having obtained the treasures of a new learned language to Europe."

Having pronounced an elaborate, and somewhat overcharged, eulogy on the genius, accomplishments, and achievements of Sir William Jones, in the form of a character of him, he proceeds:—

"It is not for me to attempt an estimate of those exertions for the advancement of knowledge, which have arisen from the example and exhortations of Sir William Jones. In all judgments pronounced on our contemporaries, it is so certain that we shall be accused, and so probable that we may be justly accused, of either partially bestowing, or invidiously withholding, praise, that it is in general better to attempt no encroachment on the jurisdiction of them, who alone impartially and justly estimate the works of men. But it would be unpardonable not to speak of the College at Calcutta, of which the original plan was, doubtless, the most magnificent attempt ever made for the promotion of learning in the East. I am not conscious that I am biassed, either by personal feeling or literary prejudices, when I say that I consider that original plan as a wise and noble proposition, of which the adoption, in its full extent, would have had the happiest tendency to secure the good government of India, as well as to promote the interests of science. Even in its present mutilated state, we have seen, at the last public examination, Sanscrit declamations by English youth; a circumstance so extraordinary,* that if it be followed by suitable advances, it will mark an epoch in the history of learning among the humblest fruits of this spirit. I take the liberty to mention the project of forming this society, which occurred to me before I left England, but which never could have advanced, even to its present state, without your hearty concurrence, and which must depend on your active co-operation for all hopes of future success. You will not suspect me of presuming to dictate the nature and object of our common exertions; to be valuable, they must be spontaneous; and no literary society can subsist on any other principle than that of equality. In the observations which I shall

* "It must be remembered that this discourse was read in 1804. In the present year, 1818, this circumstance could no longer be called extraordinary: from the learned care of Mr. Hamilton, late Professor of Indian Language at the East India College, a proficiency in Sanscrit has become not uncommon in an European institution."

make on the plan and subject of our enquiries, I shall offer myself to you only as the representative of the curiosity of Europe. I am ambitious of no higher office than that of, faithfully conveying to India the desires and wants of the learned at home, and of stating the subjects on which they wish and expect satisfaction from enquiries which can be pursued only in India. In fulfilling the duties of this mission, I shall not be expected to exhaust so vast a subject, nor is it necessary that I should attempt an exact distribution of science; a very general sketch is all that I can promise, in which I shall pass over many subjects rapidly, and dwell only on those parts on which, from my own habits of study, I may think myself least disqualified to offer useful suggestions.

“The objects of these enquiries, as of all human knowledge, are reducible to two classes, which, for want of more significant and precise terms, we must be content to call physical and moral.”

He next divides the two great classes of objects of enquiry into various branches, and proposes the systematic collection of statistical facts and observations under each branch. His object, and the tendency, beyond all question, of the enquiries which he proposes, are the promotion of humanity and civilization—above all, the good of the native people of the East. Medicine is one of the branches of enquiry which he particularly recommends. He dilates upon its importance with the predilection of a student, or the bias of a valetudinarian. The French Revolution and its consequences still haunted him beyond the Pacific Ocean. He concludes his discourse as follows:—

“On these principles, nothing can be a means of improvement which is not also a means of preservation. It is not only absurd but contradictory to speak of sacrificing the present generation for the sake of posterity; the moral order of the world is not so disposed. It is impossible to promote the interest of future generations by any measures injurious to the present; and he who labours industriously to promote the honour, the safety, and the prosperity of his own country by innocent and lawful means, may be assured that he is contributing, probably as much as the order of nature will permit a private individual, towards the welfare of all mankind.

“These hopes of improvement have survived, in my breast, all the calamities of our European world, and are not extinguished by that general condition of national insecurity which is the most formidable enemy of improvement. Founded on such principles, they are, at least, perfectly innocent—they are such as, even if they were visionary, an admirer or cultivator of letters ought to be pardoned for cherishing. Without them, literature and philosophy can claim no more than the highest rank among the amusements and ornaments of human life. With these hopes, they assume the dignity of being part of that discipline, under which the race of man is destined to proceed to the highest degree of civilisation, virtue, and happiness, of which our nature is capable.”

If Sir James Mackintosh was too sanguine in his early speculations, he was afterwards as much too easily disheartened. But it

is not an uncommon delusion, to suppose that civilization and the age have retrograded, deviated, or become stationary, because the world does not proceed according to our particular notions.

The transactions of this Society, published in London, in 1819, under his direction, contain but one paper contributed by himself. The subject is among the last which he would have been expected to choose—a plan for classifying the words common to the several dialects of India. It assuredly would have been useful, but nothing could have been more dry, and he knew nothing of the Eastern languages. After his return to England, he was requested to sit for a bust of him, to be placed in the Society's library; and was regarded with the reverence due to one who was its chief ornament as well as founder. The speech of Sir John Malcolm, on moving the transmission of the request to him, is given in the Transactions; but, through the delicacy of Sir James, that part of it which more immediately related to him is suppressed. This is a matter of regret. The suppressed part must have been the most interesting. It cannot have consisted of mere eulogy. It must have sketched the views and designs of Sir James—the extent to which he realised them, and the far greater extent to which they remained unexecuted,—for the mutual exchange of knowledge between the continents of Europe and Asia.

It has been said, that, as chief criminal judge of Bombay, his charges to grand juries, and judgments in trials, were among the most able and splendid specimens of English judiciary eloquence. There are existing in print no sufficient remains from which to decide upon the justice of this high praise; but there is enough to show the care with which he made himself acquainted with the moral state of the native community within his jurisdiction, his clear sight and impassive temper as a judge, and, above all, his sagacious, philosophic, and therefore mild, views of criminal jurisprudence.

The following is an extract from a report of his first charge to the grand jury of Bombay, delivered on the 21st of July, 1804.

“Here, gentlemen, I might close my address. But, on this first occasion of speaking to you, I cannot forbear making some observations on other subjects, which, though not immediately connected with any single law or any single crime, are, nevertheless, of the utmost importance to the general administration of justice. English judges have at all times spoken to grand juries, and, through them, to the public, in that tone of friendly (allow me to say, of paternal) admonition, which is not unbecoming the judicial character. On my arrival here, I conceived it to be my first duty to collect some information about the character and morality of the

people, the degree and kind of vice prevalent in the little community intrusted to my care : and, just as a physician would first examine the books of an hospital, so I first looked into the records of this Court ; which, though narrow, and liable to some exceptions that I shall afterwards mention, have at least the advantage of being, as far as they go, authentic.

“ Since the institution of this Court, in the year 1798, I observe that sixty-four persons have been tried for various felonies ; of whom thirty-three have been convicted, thirty-one acquitted, and nine have suffered capital punishment. If I were to estimate the morality of this community from our records alone, I should not form a very unfavourable opinion of it ; for, in that part of the British dominions in Europe where capital punishment is much the least frequent (I mean in Scotland), we know, from the authority of Mr. Hume, Professor of Law at Edinburgh, that, on an average of thirty years, six had annually suffered death out of a population which is probably not far from 1,800,000. If this state of things be compared with the situation of Bombay, where there have been three capital punishments every two years, out of a population of 150,000, the result is, no doubt, considerably against this island. But the comparison between a large seaport town, as this island may be called, and an extensive country, is not fair : a more equitable comparison furnishes a more favourable result. The same author (Mr. Hume) tells us that the city of Edinburgh, which, with its port and suburbs, cannot contain a population much above 100,000, has, on an average of twelve years, furnished three executions every two years. I believe I may venture to say, without any fear of contradiction, that it is fortunate and honourable for a people to find its morality nearly approaching to that of the inhabitants of Edinburgh. But I fear we cannot make so favourable an inference from our criminal records : here they are not so exact a criterion of the *prevailing moral diseases* as they would be in most countries. The difference of manners and language, and, perhaps, the hostile prejudices of many of the natives, render the detection of crimes difficult, and increase the chances of total concealment, in a proportion which we cannot exactly calculate, but which we know to be very great. Much of what passes among the lowest natives must be involved in a darkness impenetrable to the eyes of the most vigilant police : after the existence of a crime is ascertained, the same obstacles stand in the way of identifying the criminal ; and even after he is perfectly known, our local situation, which is that of a large town in a small territory, is that which an experienced offender would select for the opportunity of concealment and the facility of escape. And such is the unfortunate prevalence of the crime of perjury, that the hope of impunity is not extinguished by the apprehension of the delinquent. If to this you add the supine acquiescence of many English inhabitants in the peculations of their domestic servants, which, from an opinion of the rooted depravity of the natives, we seem to look upon as if their vices were immutable and inflexible, like the laws of nature ; and if you add, also, those summary chastisements which are, in my opinion, almost always useless as examples ; you will not wonder that I do not consider the records of the criminal Court as a measure of the guilt of the community : indeed, the universal testimony of Europeans, however much I may suspect occasional and partial exaggeration, is an authority too strong for me to struggle with ; and I observe that the accomplished and justly celebrated person (Sir W. Jones) who carried with him to his country a prejudice in favour of the natives, which he naturally imbibed in the course of his studies—and which in him, though not perfectly rational, was neither unamiable nor ungrateful—I observe that even he, after long judicial experience, reluctantly confessed their general depravity. The prevalence of *perjury*, which he strongly states, and which I have myself already observed, is, perhaps, a more certain sign of the *general dissolution*

of moral principle than other more daring and ferocious crimes, much more horrible to the imagination, and of which the *immediate consequences* are more destructive to society. For perjury indicates the absence of all the common restraints which withhold men from crimes : perjury supposes the absence of all fear of human justice, and bids defiance to all human laws ; it supposes, also, either a contempt for public opinion, or (what is worse) a state of society in which public opinion has ceased to brand with disgrace actions that ought to be infamous. It is an attack upon religion and law in the very point of their union for the protection of human society : it is that crime which tends to secure the impunity of all other crimes ; and it is the only crime which weakens the foundation of every right, by rendering the administration of justice, on which they all depend, difficult, and, in many cases, impossible.

“ But, gentlemen, though it be reasonable to examine the character of those over whom we have authority, and to calculate the mischievous consequences of crimes—and though it be useful to spread an abhorrence of these crimes by just representations of their nature and tendency—it is very useless and very unreasonable to indulge ourselves in childish anger and childish invective, when we are speaking of the moral diseases of great nations. The reasonable questions always are, How have they been produced ? and how are they to be cured ?

“ These are questions which all wise men acknowledge to be of infinite difficulty, even when we are content with those probable results which are sufficient for mere speculation : and their difficulty, it must be owned, is mightily increased, when we require that certainty on which, alone, prudence could act in matters which so nearly concern the happiness of multitudes of human beings. Difficult, however, as they are, it is a difficulty with which it is, in my humble opinion, the bounden duty of every lawgiver and magistrate (however humble his station, and however weak his means of usefulness, or obscure his sphere of action) constantly and resolutely to struggle ; neither depressed by disappointment, nor deterred by enmities ; but considering that the main end of life is to make some, at least, of the human race happier, which is most effectually done by making them better ; that many ineffectual attempts must be made, in order that a few should succeed ; and that, if we fail of increasing the happiness and virtue of others, the very attempt will constitute our own happiness, and improve our own virtue.

“ With these feelings, I have not suffered the short time which has elapsed since I came to this country to pass without some meditation on the causes and cure of the moral maladies of which I have spoken. My speculations are at present so crude, and my information so imperfect, that it would be absurd to communicate my thoughts to any one : when they are more matured, I may have the honour of laying some of them before the government ; and for such as will be best carried into effect by the voluntary exertions of private individuals, I shall have the honour of imparting them to you.

“ I have this morning, gentlemen, examined the prison ; and I am happy to say, that, considering it either as a place of detention for the accused, or for the debtor, or as a place of punishment for those who are convicted of crimes, it is so constructed as to prevent the loss of liberty from being aggravated by any unnecessary severities. The sheriff has, however, some reason to complain of its insecurity ; and I cannot but lament that it is not better adapted for a house of correction, especially as *I have the strongest repugnance to capital punishment*, and as I have *no high opinion of the efficacy of transportation either for reformation or example*.

“ The deficiencies of a prison, as an instrument of public policy, are matters to be discussed with coolness. If I had found any deficiencies on the score of humanity towards the prisoners, I should have spoken to you in a very different tone. I am

persuaded that your feelings would have entirely accorded with mine; convinced that, both as jurors and as private gentlemen, you will always consider yourselves as intrusted, in this remote region of the earth, with the honour of that beloved country, which, I trust, becomes more dear to you, as I am sure it does to me, during every new moment of absence: that, in your intercourse with each other, as well as with the natives of India, you will keep unspotted the ancient character of the British nation—renowned in every age, and in no age more than the present for valour, for justice, for humanity, and generosity; for every virtue which supports, as well as for every talent and accomplishment which adorns, human society.”

A famine visited several provinces of India in the summer of the same year. It forms the chief subject of his charge to the grand jury of Bombay on the 20th of October.

“I might have suffered you to proceed to the discharge of your duty without further interruption, if I had not thought it important to the interest of humanity to embrace this opportunity of making public some facts, of such a nature that it seemed to me fit to promulgate them in the most authentic form, and on the most solemn occasion known among us.

“When we are assembled to administer criminal justice—to perform the highest and most invidious, though most necessary, functions of political authority—it is consolatory to reflect, and it cannot be unbecoming to observe, that the more pleasing duties of bounty and charity have not been forgotten, and that the British government of this territory is as forward to relieve the miseries as to punish the crimes of its subjects.

“You must already have perceived that I am about to speak of the successful exertions which have been made to avert the calamities of famine from our own dominions, and to alleviate the sufferings of those wretched emigrants who have sought refuge among us from the famine which has laid waste the neighbouring continent.

“What the causes are, which in all ages seem to have rendered famine so frequent and so peculiarly severe in India, is a question of great curiosity, and, indeed, of great practical importance, but not very fit to be examined in this place, and to which I have not yet the means of giving a satisfactory answer. One general observation, however, I will venture to make. The same unfortunate state of things existed among our ancestors in Europe four or five centuries ago. The same unfavourable seasons which now only produce scarcity, then, almost uniformly, produced famine. Various causes have, doubtless, contributed to the great and happy change which has since taken place, all of them connected with the progress of European nations in the arts, institutions, and manners of civilized life; but the principal cause is, beyond all doubt, commerce: for only one of two expedients against dearth can be imagined: either we must consume less food, or we must procure more, and in general both must be combined; we must have recourse both to retrenchment and to importation. Both these purposes are effected by commerce. The home trade in grain reduces consumption; and this it does by that very operation of enhancing its price, which excites so much clamour among the vulgar of all ranks; and the foreign trade in grain makes the abundance of one country supply the wants of another. Thus famine is banished from what may properly be called the commercial world. So powerful and so beneficial are the energies of the great civilizing principle of commerce, which, counteracted as it every where is, by the stupid prejudices of the people, and by

the absurd and mischievous interference of governments, has yet accomplished so great a revolution in the condition of so large a part of mankind, as totally to exempt them from the dread of the greatest calamity which afflicted their ancestors. Whether commerce could effect so great a change in India, I shall not undertake to determine. Perhaps there are physical difficulties which are insuperable; and others, arising from the condition and habits of the people, which would be extremely difficult to overcome. These, certainly, are circumstances which must diminish and retard such a beneficial change.

“But to return from generalities, in which I ought not perhaps to have dwelt so long.—You are well aware that from a partial failure of the periodical rains in 1802, and from a more complete failure in 1803, a famine has arisen in the adjoining provinces of India, especially in the territories of the Peishwa, which I shall not attempt to describe, and which I believe no man can truly represent to the European public without the hazard of being charged with extravagant and incredible fiction. Some of you have seen its ravages; all of you have heard accounts of them from accurate observers. I have only seen the fugitives who have fled before it, and who have found an asylum in this island; but even I have seen enough to be convinced that it is difficult to overcharge a picture of Indian desolation.

“I shall now state to you from authentic documents, what has been done to save these territories from the miserable condition of the neighbouring country. From the 1st of September, 1803, to the present time, there have been imported or purchased by government 414,000 bags of rice; and there remain 180,000 bags contracted for, which are yet to arrive; forming an aggregate of nearly 600,000 bags, and amounting to the value of 50 lacks of rupees, or 600,000*l.* sterling. During the same time there have been imported by private merchants 408,000 bags of rice, making, in all, an importation of 1,000,000 bags, and amounting in value to 1,000,000*l.* sterling.

“The effects of this importation on the population of our own territories it is not very difficult to estimate. The population of the islands of Bombay, Salsette, and Caranja, and of the city of Surat, I designedly under-estimate at 400,000. I am entitled to presume, that if they had continued subject to native governments, they would have shared the fate of the neighbouring provinces which still are so subject. I shall not be suspected of any tendency towards exaggeration, by any man who is acquainted with the state of the opposite continent, when I say that in such a case an eighth of that population must have perished. Fifty thousand human beings have therefore been saved from death, in its most miserable form, by the existence of a British government in this island. I conceive myself entitled to take credit for the whole benefits of the importation,—for that which was imported by private merchants, as well as for that which was directly imported by the government; because, without the protection and security enjoyed under a British government, that commercial capital and credit would not have existed by which the private importation was effected.

“The next particular which I have to state relates to those unhappy refugees who have found their way into our territory. From the month of March to the present time, such of them as could labour have been employed in useful public works, and have been fed by government. The monthly average of these persons since March is 9135 in Bombay, 3162 in Salsette, and in Surat a considerable number, though from that city I have seen no exact returns.

“But many of these miserable beings are, on their arrival here, wholly unable to earn their subsistence by any, even the most moderate, labour. They expire in the road before they can be discovered by the agents of our charity; they expire

in the very act of being carried to the place where they are to receive relief. To obviate, or at least to mitigate, these dreadful evils, a *Humane Hospital* was established by government for the relief of those emigrants who were unable to labour. The monthly average of those who have been received since March into this hospital, is 1030 in Bombay, about 100 at Salsette, and probably 300 at Surat.

"I myself visited this hospital, in company with my excellent friend Dr. Scott, and I witnessed a scene of which the impression will never be effaced from my mind. The average monthly mortality of this establishment is dreadful; it amounts to 480. At first sight this would seem to argue some monstrous defects in the plan or management of the institution. And if there were great defects in so new an establishment, hastily provided against so unexampled an evil, those who are accustomed to make due allowance for human frailty would find more to lament than to blame in such defects. But when it is considered that *almost all these deaths occur in the first four or five days after admission*, and that scarcely any disease has been observed among the patients but the direct effects of famine, we shall probably view the mortality as a proof of the deplorable state of the patients, rather than of any defects in the hospital; and instead of making the hospital answerable for the deaths, we shall deem it entitled to credit for the life of every single survivor.

"Those who know me will need no assurances that I have not made these observations from a motive so unworthy of my station and my character as that of paying court to any government. I am actuated by far other motives. I believe that knowledge on subjects so important cannot be too widely promulgated. I believe, if every government on earth were bound to give an annual account before an audience whom they respected, and who knew the facts of what they had done during the year for improving the condition of their subjects, that this single and apparently slight circumstance would better the situation of all mankind; and I am desirous that, if any British government of India should ever, in similar calamitous circumstances, forget its most important and sacred duties, this example should be recorded for their reproach and disgrace.

"Upon the whole, I am sure that I considerably understate the fact, in saying that the British government in this island has saved the lives of 100,000 persons; and, what is more important, that it has prevented the greater part of the misery through which they must have passed before they found refuge in death, besides the miseries of all those who loved them, or who depended upon their care.

"The existence, therefore, of a British government in Bombay in 1804 has been a blessing to its subjects. Would to God that every government of the world could with truth make a similar declaration!

"Many of you have been, and many will be, entrusted with authority over multitudes of your fellow creatures. Your means of doing good will not, indeed, be so great as those of which I have now described to you the employment and the effect; but they will be considerable. Let me hope that every one of you will be ambitious to be able to say to your own conscience,—'I have done something to better the condition of the people intrusted to my care.' I take the liberty to assure you, that you will not find such reflections among the least agreeable or valuable part of that store which you lay up for your declining years."

The following extract from his charge to the grand jury on the 19th of April, 1806, throws a melancholy and instructive light on the moral character and habits of the natives of India:—

"I do not foresee that you will require legal instruction in any part of the duty which you are now to perform: yet some of the offences likely to come under your cognisance are of so singular, and others are of so heinous a nature, that I cannot prevail on myself altogether to pass them over in silence.

"Among them is a case of *child murder*,—a crime very rare, and justly considered as most unnatural in all countries where its prevalence cannot easily be accounted for, either from some sanguinary superstition, or from the distresses of excessive population, or from misapplied principles of severe morality. And even in these cases, the life of the infant is usually destroyed at the moment of its birth, before the mind has been habituated to consider it as a living being, before it can advance its powerful claims on compassion, before it can have created that strong interest which helpless innocence naturally inspires. The murderers do a sort of homage to nature by their, as it were, confessing, that if they were to leave time for the native attractions of infancy to operate, even their hearts would be subdued. The deliberate murder of children after they have reached that most interesting age at which sensibility and reason begin to dawn, is, I believe, peculiar to this country, where it is much more prevalent than could have beforehand been expected from a people among whose vices that of active cruelty is certainly not to be numbered. The truth seems to be, as I observed to you on a former occasion, that the natives of India, though incapable of the crimes which arise from violent passions, are, beyond every other people on the earth, addicted to those vices which proceed from the weakness of natural feeling, and the almost total absence of moral restraints. This observation may, in a great measure, account for that most aggravated species of child murder which prevails among them. They are not actively cruel, but they are utterly insensible. They have less ferocity, perhaps, than most other nations, but they have still less compassion. Among them, therefore, infancy has lost its natural shield. The paltry temptation of getting possession of the few gold and silver ornaments, with which parents in this country load their infants, seems sufficient to lead these timid and mild beings to destroy a child without pity, without anger, without fear, without remorse, with little apprehension of punishment, and with no apparent shame on detection. Whether it would be wise in the public authority to take away this temptation to murder, by the prohibition of these ornaments under a certain age, is a question which I will not undertake to decide. It is our duty to remember that this abominable crime is easily committed, and very easily hid; that, in our crowded and fluctuating population, the disappearance of a poor child is a fact not likely to excite much attention; that this, therefore, is a subject which requires all the vigilance of the public, and deserves the most serious investigation in a criminal court."

One of the most curious incidents in judicial history occurred in the case of two British officers, Lieutenants Macguire and Cauty, brought up to receive judgment from Sir James Mackintosh. Two Dutchmen had become objects of animosity to those officers, in consequence of legal proceedings, which, if not vindictive on the part of the former, were ruinous to the latter. The officers, in a state of drunken excitement, resolved to waylay and assault the Dutchmen. The latter took a different route on the evening in question from that which they were expected to take, escaped attack, and prosecuted Lieutenants Macguire and Cauty for the offence

of lying in wait with the intent to murder. The jury found the offenders guilty, and they were brought up for judgment. Sir James thus addressed them :—

“ Bryan Macguire and George Cauty, you have been convicted of the offence of conspiring to waylay and assault by night two unarmed foreigners, John and Jacob Vandersloot; and it appears that you lay in wait for them to execute your design, with the assistance of two other persons, all of you armed with bludgeons, pistols, or muskets. Your avowed motive for this project of barbarous revenge was, that one of these foreign gentlemen had brought an action against one of you in this Court.

“ The observations which you have now made on the evidence in support of this charge would have been too late, even if they had been new or important. I am not the judge of evidence; that is the province of the jury; and, after their verdict, I can see only with their eyes, and hear only with their ears. But, in fact, you have now only repeated the observations which you made on your trial, which I then stated to the jury, and which, in my opinion, they did well to disregard.

“ It is now, therefore, my duty to pronounce the judgment of this Court upon you; and I should content myself with the above short statement of the nature and circumstances of your offence, if I were not induced to make a few observations, by some faint hope of being useful to you, and by a strong sense of the duty which any man of experience owes to the numerous inexperienced young men, such as I see around me, who are deprived so early of parental guidance; and who may see, in your deplorable but most instructive example, how easily conviviality may degenerate into excess, and how infallibly habitual excess, with its constant attendant, bad society, leads to such unhappy situations as that in which you now stand.

“ I know that the brutish vice of drunkenness, with all the noisy and turbulent vices which follow in her train, has a false exterior of spirit and manliness, which sometimes seduces weak and ignorant boys. Not that this can be said in the present case. A plan for overpowering two defenceless men under cover of darkness, with more than double their numbers, armed with deadly weapons, can have nothing attractive to any but such as are ‘ the stain of manhood and of arms.’

“ But I know that the mischievous character from which such acts spring, sometimes dazzles and allures inexperienced eyes. Let me rub off a little of the varnish which hides from them its deformity. A disposition to engage in quarrels and broils is not, as they may suppose, a mere excess of martial spirit, which is to actuate them on greater occasions. It is the very reverse of it: it is as unmilitary as it is unsocial and immoral; it is an offence against the first principle which holds armies together; it is a violation of that prompt, eager, active obedience to authority, far more necessary in armies than in any other bodies of men, and without which they must speedily degenerate into a ferocious rabble. One of the greatest and wisest of men has, in one comprehensive sentence, concentrated every thing that can be said on the relation of an army to the internal order of the state: ‘ An armed disciplined body is dangerous to liberty; an armed undisciplined body is dangerous to society itself.’

“ Much more is this turbulent disposition inconsistent with the peculiar character of a British soldier. That which distinguishes him not only from a mere ruffian, but from a mercenary slave, is, that he has taken up arms to protect the rights of his fellow-citizens, and to preserve the public quiet. He is an armed minister of the laws, and we expect from him a peculiar affection and veneration for those unarmed laws and magistrates whom he has girt on his sword to guard. Every

true soldier must have too great a reverence for the noble virtue of courage, to sully and degrade it in the wretched frays of sottish ruffians. It is reserved for nobler objects: he will not prostitute it on such ignoble and vile occasions. True courage is too serious, too grave, too proud a quality to endure such degradation.

“Such vices are most unofficerlike, because they are most ungentlemanlike. As long as courage continues to be one of the distinctive qualities of a gentleman, so long must the profession of arms be regarded as the depositary and guardian of all the feelings and principles which constitute that character. A gentleman is a man of more refined feelings and manners than his fellow men. An officer is, or ought to be, peculiarly and eminently a gentleman. But there is nothing so low and vulgar as the fame of a bully, and the renown of midnight brawls. They imply every quality of a highwayman but his courage, and they very often lead to his fate.

“In considering the punishment to be inflicted on you, I observe that you build some hopes of mercy on your dismissal from the service by a Court Martial for other offences. As these offences have proceeded from the same wretched vice of disposition which has placed you at this bar, I am not unwilling to consider them as part of the visitation which your mischievous turbulence has brought upon you, and therefore as some justification for mild punishment to a Court which eagerly looks out for such justifications. It has been my fate in this place to be obliged to justify the lenity, rather than the severity, of the penalties inflicted here. I think it is likely to continue so. I have more confidence in the certainty than in the severity of punishment. I conceive it to be the first duty of a criminal judge to exert and to strain every faculty of his mind to discover, in every case, the smallest possible quantity of punishment that may be effectual for the ends of amendment and example. I consider every pang of the criminal, not necessary for these objects, as a crime in the judge; and in conformity with these principles, I was employed in considering the mildest judgment which public duty would suffer me to pronounce on you, when I learned, from undoubted authority, that your thoughts towards me were not quite of the same nature. I was credibly, or rather certainly, informed, that you had admitted into your minds the desperate project of destroying your own lives at the bar where you stand, and of signalling your suicide by the previous destruction of at least one of your judges. If that murderous project had been executed, I should have been the first British magistrate who ever stained with his blood the bench on which he sat to administer justice. But I never can die better than in the discharge of my duty. When I accepted the office of a minister of justice, I knew that I must be unpopular among the enemies of justice; I knew that I ought to despise unpopularity and slander, and even death itself. Thank God, I do despise them; and I solemnly assure you that I feel more compassion for the gloomy and desperate state of mind which could harbour such projects, than resentment for that part of them which was directed against myself.

“It is my duty to remind you, that your despair is premature and groundless. At your age, in a new society, where you may not be followed by the memory of your faults, you may yet atone for them, and regain that station in society to which the fond hopes of your unfortunate relations had probably, at parting, destined you. The road which leads back to character and honour is, and ought to be, steep; but ought not to be, and is not, inaccessible. On the other hand, if any of the comrades of your excesses be present, any of those who have been arrested on the brink of destruction by their penitence, or by their timely fears, or by fortunate accidents, or by the mercy of others, I most earnestly conjure them never to forget the situation in which they this day see you. Let those who stand, take heed lest they fall. The declivity is slippery from the place where they stand to that where you lie prostrate.

“I should consider myself as indelibly disgraced, if a thought of your projects

against me were to influence my judgment. That, however, I believe, you yourselves will scarcely suppose.

“The judgment of this Court is, that you, the said Bryan Macguire and George Cauty, be, for this your offence, imprisoned in the gaol of Bombay for twelve calendar months.”

The following note on this singular circumstance appeared in the *Bombay Courier*:—

“The Recorder’s private information of this atrocious and almost incredible project must, of course, have been confidential, and therefore can never be disclosed. Many gentlemen saw in the hands of the sheriff the arms which had been seized on one of the prisoners (B. Macguire): they consisted of four pistols of various dimensions, three of them double barrellled, in a case made to resemble a writing desk, which he had with him in court on the day of his trial, under pretence of carrying his papers. The pistols were loaded with slugs, in a manner for which, in this island, it is not easy to assign an innocent motive.”

There is reason to believe, from other sources of information, that the communication made to Sir James was a misapprehension; that Macguire protested against the remotest idea of such a purpose; that he submitted to inspection his writing desk, which, from mere singularity, he had caused to be so constructed as to serve the double purpose of a writing desk and pistol case; and that the pistols which it contained were not charged. He some years afterwards attracted much notice in Dublin, by his peculiarities of manner and costume. His great ambition was to be a point blank pistol duellist, and he gave the most eccentric and unequivocal evidence of his skill. But his disposition was not quarrelsome; he was good-tempered in private society with his acquaintance; his duels arose, for the most part, from rival pretensions; and the fact, that of the many in which he was engaged not one proved fatal, was ascribed, by those who knew him, to his forbearance and humanity. There are some improbable circumstances in the version above cited. If the communication was made to Sir James before he began to pronounce judgment, it appears to have been an inconceivable imprudence to remain gratuitously exposed, even for a second, to assassination; if it was made to him in the course of his address, and he believed that the purpose of a crime so heinous to have been really entertained, the impunity of the criminals, and the lenity of the sentence, was not magnanimity, but weakness.

The following is his farewell charge, delivered on the 20th of July, 1811:—

"Gentlemen of the Grand Jury,

"The present calendar is unfortunately remarkable for the number and enormity of crimes.

"To what cause we are to impute the very uncommon depravity which has, in various forms, during the last twelve months, appeared before this Court, it is difficult, and perhaps impossible, to determine. But the length of this calendar may probably be, in a great measure, ascribed to the late commendable disuse of irregular punishment at the Office of Police; so that there is not so much an increase of crimes as of regular trials.

To frame and maintain a system of police, warranted by law, vigorous enough for protection, and with sufficient legal restraints to afford a security against oppression, must be owned to be a matter of considerable difficulty in the crowded, mixed, and shifting population of a great Indian sea-port. It is no wonder, then, that there should be defects in our system, both in the efficacy of its regulations and the legality of its principles: and this may be mentioned with the more liberty, because these defects have originated long before the time of any one now in authority; and have rather, indeed, arisen from the operation of time and chance on human institutions, than from the fault of any individual. The subject has of late occupied much of my attention. Government have been pleased to permit me to lay my thoughts before them; a permission of which I shall in a few days avail myself; and I hope that my diligent enquiry and long reflection may contribute somewhat to aid their judgment in the establishment of a police which may be legal, vigorous, and unoppressive.

"In reviewing the administration of law in this place since I have presided here, two circumstances present themselves, which appear to deserve a public explanation.

"The first relates to the principles adopted by the Court in cases of commercial insolvency.

"In India, no law compels the equal distribution of the goods of an insolvent merchant; we have no system of bankrupt laws.

"The consequence is too well known. Every mercantile failure has produced a disreputable scramble, in which no individual could be blamed; because, if he were to forego his rights, they would not be sacrificed to equitable division, but to the claims of a competitor better entitled than himself. A few have recovered all, and the rest have lost all. Nor was this the worst.

"Opulent commercial houses, either present, or well served by vigilant agents, almost always foresaw insolvency in such time as to secure themselves. But old officers, widows, and orphans in Europe, could know nothing of the decaying credit of their Indian bankers, and they had no agents but those bankers themselves: they, therefore, were the victims of every failure. The rich generally saved what was of little consequence to them, and the poor almost constantly lost their all. These scenes have frequently been witnessed in various parts of India. They have formerly occurred here. On the death of one unfortunate gentleman, since I have been here, the evil was rather dreaded than felt.

"Soon after my arrival, I laid before the British merchants of this island a plan for the equal distribution of insolvent estates, of which accident then prevented the adoption. Since that time, the principle of the plan has been adopted in several cases of actual or of apprehended insolvency, by a conveyance of the whole estate to trustees, for the equal benefit of all the creditors. Some disposition to adopt similar arrangements appears of late to manifest itself in Europe; and certainly nothing can be better adapted to the present dark and unquiet condition of the commercial world. Wherever they are adopted early, they are likely to prevent bankruptcy. A very intelligent merchant justly observed to me, that, under such

a system, the early disclosure of embarrassment would not be attended with that shame and danger which usually produce concealment and final ruin. In all cases, and at every period, such arrangements would limit the evils of bankruptcy to the least possible amount.

"It cannot, therefore, be matter of wonder that a Court of justice should protect such a system with all the weight of their opinion, and to the utmost extent of their legal power.

"I by no means presume to blame those creditors who, on the first proposal of this experiment, withheld their consent, and preferred the assertion of their legal rights. They had, I dare say, been ill used by their debtors, who might personally be entitled to no indulgence from them. It is too much to require of men, that, under the influence of cruel disappointment and very just resentment, they should estimate a plan of public utility in the same manner with a dispassionate and disinterested spectator. But experience and reflection will in time teach them, that, in seeking to gratify a just resentment against a culpable insolvent, they, in fact, direct their hostility against the unoffending and helpless part of their fellow-creditors.

"One defect in this voluntary system of bankrupt laws must be owned to be considerable: it is protected by no penalties against the fraudulent concealment of property. There is no substitute for such penalties, but the determined and vigilant integrity of trustees. I have, therefore, with pleasure, seen that duty undertaken by European gentlemen of character and station. Besides the great considerations of justice and humanity to the creditors, I will confess that I am gratified by the interference of English gentlemen to prevent the fall of eminent or ancient commercial families among the natives of India.

"The second circumstance which I think myself now bound to explain, relates to the dispensation of penal law.

"Since my arrival here, in May, 1804, the punishment of death has not been inflicted by this Court.

"Now, the population subject to our jurisdiction, either locally or personally, cannot be estimated at less than 200,000 persons.

"Whether any evil consequence has yet arisen from so unusual (and in the British dominions unexampled) a circumstance as the disuse of capital punishment, for so long a period as seven years, among a population so considerable, is a question which you are entitled to ask, and to which I have the means of affording you a satisfactory answer.

"The criminal records go back to the year 1756.

"From May, 1756, to May, 1763, the capital convictions amounted to 141, and the executions were forty-seven. The annual average of persons who suffered death was almost seven, and the annual average of capital crimes ascertained to have been perpetrated was nearly twenty.

"From May, 1804, to May, 1811, there have been 109 capital convictions. The annual average, therefore, of capital crimes, legally proved to have been perpetrated during that period, is between fifteen and sixteen. During this period there has been no capital execution.

"But as the population of this island has much more than doubled during the last fifty years, the annual average of capital convictions during the last seven years ought to have been forty, in order to show the same proportion of criminality with that of the first seven years. But between 1756 and 1763, the military force was comparatively small. A few factories or small ports only depended on this government. Between 1804 and 1811, 500 European officers, and probably 4000 European soldiers, were scattered over extensive territories. Though honour and morality

be powerful aids of law with respect to the first class, and military discipline with respect to the second, yet it might have been expected, as experience has proved, that the more violent enormities would be perpetrated by the European soldiery, uneducated and sometimes depraved as many of them must originally be, often in a state of mischievous idleness, commanding, in spite of all care, the means of intoxication, and corrupted by contempt for the feelings and rights of the natives of this country.

“If these circumstances be considered, it will appear that the capital crimes committed during the last seven years, with no capital execution, have, in proportion to the population, not been much more than a third of those committed in the first seven years, notwithstanding the infliction of death on forty-seven persons.

“The intermediate periods lead to the same results.

“The number of capital crimes in any one of these periods, does not appear to be diminished either by the capital executions of the same period, or of that immediately preceding. They bear no assignable proportion to each other.

“In the seven years immediately preceding the last, which were chiefly in the presidency of my learned predecessor, Sir William Syer, there was a very remarkable diminution of capital punishments. The average fell from about four in each year, which was that of the seven years before Sir William Syer, to somewhat less than two in each year. Yet the capital convictions were diminished about one third.

“The punishment of death is principally intended to prevent the more violent and atrocious crimes.

From May, 1797, there were eighteen convictions for murder, of which I omit two, as of a very particular kind. In that period there were twelve capital executions.

“From May, 1804, to May, 1811, there were six convictions for murder, omitting one which was considered by the jury as in substance a case of manslaughter with some aggravation. The murders in the former period were, therefore, very nearly as three to one to those in the latter, in which no capital punishment was inflicted.

“From the number of convictions, I, of course, exclude those cases where the prisoner escaped; whether he owed his safety to defective proof of his guilt, or to a legal objection. This cannot affect the justness of a comparative estimate, because the proportion of criminals who escape on legal objections before courts of the same law, must, in any long period, be nearly the same.

“But if the two cases,—one where a formal verdict of murder, with a recommendation to mercy, was intended to represent an aggravated manslaughter; and the other of a man who escaped by a repugnancy in the indictment, where, however, the facts were more near manslaughter than murder,—be added, then the murders of the last seven years will be eight, while those of the former seven years will be sixteen.

“This small experiment has, therefore, been made without any diminution of the security of the lives and properties of men. Two hundred thousand men have been governed for seven years without a capital punishment, and without any increase of crimes. If any experience has been acquired, it has been safely and innocently gained.

“It was, indeed, impossible that the trial could ever have done harm. It was made on no avowed principle of impunity or even lenity. It was in its nature gradual, subject to cautious reconsideration in every new instance, and easily capable of being altogether changed on the least appearance of danger. Though the general result be rather remarkable, yet the usual maxims which regulate judicial discretion have in a very great majority of cases been pursued. The instances

of deviation from those maxims scarcely amount to a twentieth of the whole convictions.

"I have no doubt of the right of society to inflict the punishment of death on enormous crimes, wherever an inferior punishment is not sufficient. I consider it as a mere modification of the right of self-defence, which may as justly be exercised in deterring from attack, as in repelling it.

"I abstain from the discussions in which benevolent and enlightened men have, on more sober principles, endeavoured to show the wisdom of, at least, confining the punishment of death to the highest class of crimes. I do not even presume in this place to give an opinion regarding the attempt which has been made by one whom I consider as among the wisest and most virtuous men of the present age, to render the letter of our penal law more conformable to its practice. My only object is to show that no evil has hitherto resulted from the exercise of judicial discretion in this Court. I speak with the less reserve, because the present sessions are likely to afford a test which will determine whether I have been actuated by weakness or by firmness, by fantastic scruples and irrational feelings, or by a calm and steady view to what appeared to me the highest interests of society.

"I have been induced to make these explanations by the probability of this being the last time of my addressing a grand jury from this place.

"His Majesty has been graciously pleased to approve of my return to Great Britain, which the state of my health has for some time rendered very desirable. It is therefore probable, though not certain, that I may begin my voyage before the next sessions.

"In that case, gentlemen, I now have the honour to take my leave of you, with those serious thoughts that naturally arise at the close of every great division of human life; with the most ardent and unmixed wishes for the welfare of the community with which I have been for so many years connected by an honourable tie; and with thanks to you, gentlemen, for the assistance which many of you have often afforded me in the discharge of duties, which are necessary, indeed, and sacred, but which, to a single judge, in a recent Court, and small society, are peculiarly arduous, invidious, and painful."

From this interesting discourse it appears that the views and principles of criminal jurisprudence, urged by Sir James Mackintosh as a member of the House of Commons, had already been acted on by him as a judge, and thus rested not only upon his meditations but upon his experience.

The following address from the grand jury was presented to him by the foreman :—

"My Lord,

"We, the Grand Jury, have learned with regret, by the valedictory charge delivered to us at the commencement of these sessions, that the connexion which has for seven years subsisted between your Lordship and us, in the administration of public justice, is on the eve of dissolution. But we trust that those splendid talents, which have rendered your Lordship so conspicuous among the eminent men of the present times, will soon be called forth for the public service in a more extended sphere.

"As a mark of respect, we request you will do us the honour to sit for your portrait, which we are desirous of placing in the Hall where you have so long pre-

sided with such distinguished ability ; and with cordial wishes for your safe return to your native country, we have the honour to be,

“ My Lord,

“ Your Lordship’s obedient Servants,

“ W. T. MONEY,

“ *Grand Jury Room, 16th July, 1811.*

“ Foreman.”

The following answer was returned by Sir James :—

“ *Bombay, 17th July, 1811.*

“ Sir,

“ I request that you will present my grateful acknowledgments to the grand jury for the address with which they have honoured me.

“ Conscious rectitude must often be the sole support of a magistrate, whose most unpopular duties may be the most useful ; but it would betray unbecoming confidence to be indifferent to the deliberate and final approbation of a body of gentlemen, most of whom have been long and near observers of my official conduct ; and who, both from their private character and their public functions, are entitled to speak in the name of the community.

“ However humbly I may estimate my understanding, and how much soever I must, therefore, question the justness of your commendations, I cannot doubt their sincerity. Flattery is not an English vice, and there can be no motive to flatter a person from whom nobody has any thing to hope.

“ I must, then, ascribe the partiality which has dictated these praises, to your long observation of a quality which I may claim for myself without hesitation and without presumption,—a most earnest desire to administer justice according to the dictates of conscience and humanity.

“ In that conviction, I receive these praises as a higher honour than if I had presumed to think them more strictly just.

“ As soon as I reach Great Britain, I shall take measures for complying with the desire, so honourable to me, which the grand jury have been pleased to express.

“ I have the honour to be,

“ Sir,

“ Your most obedient humble Servant,

“ JAMES MACKINTOSH.”

The chief occupation of Sir James Mackintosh, besides the engagements already stated, was writing what has been described by himself as “ a Sketch of his Life.” It is said that he also not only projected, but commenced, whilst in India, the “ History of England,” beginning with the Revolution. This idea seems to have been uppermost in his mind from an earlier period. Upon his change of political opinion, he professed himself a Whig of 1688, and took every opportunity of eulogising the great transaction of that period, and the character of William III. This really great, but not faultless prince—what prince or man was ever faultless?—became the god of his idolatry. By exalting William and the Re-

volution of 1688, he disguised from himself his change of principles, identified his own character with the character of the Revolution, and worked himself unconsciously into a retrospective partisan, by way of proving, that the man who renounced the principles of the “*Vindiciæ Gallicæ*,” was still the friend of freedom. This bias of his ideas will be discerned in the present volume. Writing as a historian, he assigns to the Prince of Orange the same faultless constitution of mind, the same incredible perfection of virtue, the same impossible superiority to ambition and interest—to human passions and motives,—with which he invested his hero when writing anonymously in the “*Monthly Review*.”

Sir James wrote but little if any portion of his history before his return to Europe. It is said, however, that he sketched in India, and on his way home, characters of some of the leading personages who were to figure in his work. These sketches were either lost by himself, or stolen by some person who had access to his papers. He learned, after some time, that they were offered for sale in France, and unexpectedly recovered them. The sketches of the chief members of James’s cabinet, given at the opening of this volume, were doubtless among the number.

Mr. Fox died in the summer of 1806. The following character of him, by Sir James Mackintosh, appeared in a Bombay newspaper of the following January:—

“Mr. Fox united, in a most remarkable degree, the seemingly repugnant characters of the mildest of men and the most vehement of orators. In private life he was gentle, modest, placable, kind, of simple manners, and so averse from dogmatism, as to be not only unostentatious, but even something inactive in conversation. His superiority was never felt but in the instruction which he imparted, or in the attention which his generous preference usually directed to the more obscure members of the company. The simplicity of his manners was far from excluding that perfect urbanity and amenity, which flowed still more from the mildness of his nature than from familiar intercourse with the most polished society of Europe. The pleasantry, perhaps, of no man of wit had so unlaboured an appearance; it seemed rather to escape from his mind, than to be produced by it. He had lived on the most intimate terms with all his contemporaries distinguished by wit, politeness, or philosophy, or learning, or the talents of public life. In the course of thirty years, he had known almost every man in Europe whose intercourse could strengthen, or enrich, or polish the mind. His own literature was various and elegant. In classical erudition, which, by the custom of England, is more peculiarly called learning, he was inferior to few professed scholars. Like all men of genius, he delighted to take refuge in poetry, from the vulgarity and irritation of business. His own verses were easy and pleasant, and might have claimed no low place among those which the French call *vers de société*. The poetical character of his mind was displayed by his extraordinary partiality for the

poetry of the two most poetical nations, or at least languages, of the West,—those of the Greeks and of the Italians. He disliked political conversation, and never willingly took any part in it.

“To speak of him justly as an orator would require a long essay. Every where natural, he carried into public something of that simple and negligent exterior which belonged to him in private. When he began to speak, a common observer might have thought him awkward; and even a consummate judge could only have been struck with the exquisite justness of his ideas, and the transparent simplicity of his manners. But no sooner had he spoken for some time, than he was changed into another being. He forgot himself and every thing around him. He thought only of his subject. His genius warmed and kindled as he went on. He darted fire into his audience. Torrents of impetuous and irresistible eloquence swept along their feelings and conviction. He certainly possessed, above all moderns, that union of reason, simplicity, and vehemence, which formed the prince of orators. He was the most Demosthenean speaker since the days of Demosthenes. ‘I knew him,’ says Mr. Burke, in a pamphlet written after their unhappy difference, ‘when he was nineteen; since which time he has risen, by slow degrees, to be the most brilliant and accomplished debater the world ever saw.’

“The quiet dignity of a mind roused only by great objects, the absence of petty bustle, the contempt of show, the abhorrence of intrigue, the plainness and downrightness, and the thorough good-nature, which distinguished Mr. Fox, seem to render him no unfit representative of the old English character, which, if it ever changed, we should be sanguine indeed to expect to see succeeded by a better. The simplicity of his character inspired confidence, the ardour of his eloquence roused enthusiasm, and the gentleness of his manners invited friendship. ‘I admired,’ says Mr. Gibbon, after describing a day passed with him at Lausanne, ‘the powers of a superior man, as they are blended, in his attractive character, with all the softness and simplicity of a child: no human being was ever more free from any taint of malignity, vanity, or falsehood.’

“The measures which he supported or opposed may divide the opinion of posterity, as they have divided those of the present age. But he will most certainly command the unanimous reverence of future generations, by his pure sentiments towards the commonwealth, by his zeal for the civil and religious rights of all men; by his liberal principles, favourable to mild government, to the unfettered exercise of the human faculties, and the progressive civilisation of mankind; by his ardent love for a country of which the well-being and greatness were, indeed, inseparable from his own glory; and by his profound reverence for that free constitution, which he was universally admitted to understand better than any other man of his age, both in an exactly legal and in a comprehensively philosophical sense.”

This character of Fox, though much admired, did not give entire satisfaction. Parr pronounced it a very elaborate and masterly sketch, but took offence at the tone in which Sir James cited Burke's estimate of Fox. The friends of Mr. Fox, he said, had little cause to be pleased with the claim set up for the credit not only of Burke's taste, but of his justice, and perhaps of his placability. Burke, he adds, must have well known that the epithets “most brilliant and accomplished” did not make the term “debater” co-extensive with

the aggregate of Mr. Fox's merits as a public speaker The slightest touch of his wand might have transformed debater into orator . . . but the former term was preferred, from low jealousy, and the inglorious artifice of damning with faint praise. Sir James does not escape the lash of his early friend. "To me, indeed," continues Parr, "it appears that the republication of the remark reflects little credit on the magnanimity of him who made, or the discretion of him who would disseminate it. The writer to whom I allude has, himself, shown Mr. Fox to be more than a brilliant and accomplished debater Why did the learned author of the sketch run the hazard of counteracting the stronger praise which was bestowed by himself, by the introduction of the weaker praise bestowed by Mr. Burke? . . . If he meant to exalt Mr. Burke, as I suspect he did, his attempt was not wise His present partiality in favour of Mr. Burke's politics is greater than my own; his habitual admiration of Mr. Burke's talents is not."

To call Fox "the most brilliant and accomplished debater," was assuredly to depreciate him: and the sketch of him by Sir James would have been more worthy of its subject and its author, were it more single-minded. The jealous admiration, and even angry zeal, of Parr, may not only be excused but respected.

The health of Sir James was seriously impaired two years before his return. Lady Mackintosh left Bombay for England in 1809, for the purpose of negotiating his retirement, on the ground of his state of health, and succeeded. He returned to Europe in 1812, received from the Company a pension of 1200*l.* a year, and the professorship of law and general polity in the East India College.

The subjects of his lectures here must have been, to a considerable extent, identical with those of his lectures on the law of nations in the Hall of Lincoln's Inn. It is scarcely conceivable that the courses, on both occasions, should have been prepared and delivered by him without his leaving any written remains in a state to be given to the public. His materials, whether from meditation or research, however destitute of form, order, or connexion, would be valuable and interesting to the reader—more valuable and interesting than most finished discourses. The reader would be thus admitted within his study, to view his mind exercising its powers in an undress.

Lady Mackintosh appears to have managed his interests with no common capacity, on her arrival in England. She succeeded in

negotiating not only his retirement from India, but his return to Parliament. He was elected, in 1812, representative for the small county of Nairn, through the influence of Lord Cawdor. His first speech, without any failure of talent, yet wholly failed of effect. It was delivered by him on the 14th of December, 1813. The French empire now trembled to its centre: the Rhine was passed, and France invaded by the Allies on the one side; the Duke of Wellington was approaching the barrier of the Pyrenees on the other; and the English guards were already arrived in Holland, to support the Dutch in their unexpected state of insurrection against Napoleon in favour of the House of Orange. Pending events so momentous, Lord Castlereagh gave notice of a long adjournment of Parliament. Sir James Mackintosh announced that he should resist the motion. On the 13th of December, the Minister moved an adjournment of the House to the 1st of March following, without adding a single reason or observation in support of his motion; the propriety of which was, he said, too obvious to require proof. Sir James came prepared to tear and trample the flimsy web of oratory which made up that minister's parliamentary speeches,—his mind and memory charged with an oration in which he should pass the state of Europe in review. He was taken by surprise: the manœuvre of the minister left him no ground to stand upon; he had to discharge his speech in the air; and thus a speech redundant with eloquence and information, delivered without spirit, under a sense of disappointment and surprise, dropped cold and lifeless as a prelection upon a thin and dull auditory. Thus mainly does the success of a public speaker depend upon tact and the occasion, independently of mere talent.

He was not only out-manœuvred by the minister, but abandoned to his fate by the Whigs. Sir Samuel Romilly and Mr. Abercromby alone came to his relief. They praised his speech, and supported his amendment, that the adjournment should extend only to the 24th of January. The Whigs can hardly be said to have deserted him in a situation so critical to his reputation. He resumed, on his return, the same neutral position between parties in which he had placed himself before he went to India. So unpledged or unconnected was he considered on his return, that Lord Moira offered him a seat in Parliament through the influence of the Court.

The effect of this failure was long felt by him. It took him two

or three sessions to rally his ambition and energy, recover the ground which he had lost, and reassert his reputation and authority.

But the failure was confined within the walls of Parliament. His continuation of Hume's History of England was announced: the talents of the author, and the merits of the work, were estimated by the magnificent price which he was to receive; and the public, upon his word, placed him by anticipation, as the classic historian of his country and age, by the side of Hume, Robertson, and Gibbon. He possessed the talent of conversation; and his reputation in society raised still higher the expectations of the world. Society is said to be less cultivated in London than in other great capitals. It attained at this period its greatest *éclat* since the age of Anne. The genius and popularity of English living poets, the high estimation of the art, the marvellous events and extraordinary excitement of the time, the influx of distinguished foreigners from the different countries of Europe, rendered certain circles in London brilliant beyond example. Lord Byron was now at the height of his eccentric career; and Madame de Staël, after having paraded herself and her grievances, during ten years, from city to city on the Continent, came to London for the purpose of gathering homage through every gradation, from Grub-street to Holland House. Sir James Mackintosh squandered his mornings, his evenings, and his faculties on those dazzling circles. He did the honours of the genius of Madame de Staël; he escorted, introduced and exhibited her; he was himself among those whose acquaintance was sought by strangers, as one of the leading intellects of his nation: his presence was thought necessary wherever distinguished talents and the best company were combined for social enjoyment or for ostentation. But what were those frivolous successes of society—those perishable vanities of an hour—compared with the sacrifice of so large a portion of the small compass of human life, which might have been devoted in the solitude of his cabinet to the production of lasting monuments to his reputation? The only remains of his labours at this period are a few occasional papers in the “*Edinburgh Review*.” Of his contributions to this publication some obtained a certain celebrity, and were known to be his: others are less known to the general reader, and were not read as his beyond the literary coteries of London.

The first paper by him appeared in November, 1812, on Dugald

Stewart's account of a boy born deaf and blind. A more interesting subject could not present itself to one who had made the philosophy of mind his particular study. Sir James gives the following account of the means which the sister of this singular creature had invented for communicating with him:—

“His sister has devised means for establishing that communication between him and other beings, from which nature seemed for ever to have cut him off. By various modifications of touch, she conveys to him her satisfaction or displeasure at his conduct. Touching his head with her hand is her principal method. This she does with various degrees of force, and in various manners; and he seems readily to understand the intimation intended to be conveyed. When she would signify her highest approbation, she pats him much and cordially, on the head, back, or hand. This expression more sparingly used signifies simple assent; and she has only to refuse him these signs of approbation entirely, and repel him gently, to convey to him in the most effectual manner the notice of her displeasure. In this manner she has contrived a language of touch, which is not only the means of communication, but the instrument of some moral discipline. To supply its obvious and great defects, she has had recourse to a language of *action*, representing those ideas which none of the simple natural signs cognisable by the sense of touch could convey. When his mother was from home, his sister allayed his anxiety for her return, by laying his head gently down on a pillow once for each night that his mother was to be absent; implying that he would sleep so many times before her return. It was once signified to him that he must wait two days for a suit of new clothes, and this also was effectually done by shutting his eyes, and bending down his head twice. In the mode of communicating his ideas to others, there is a very remarkable peculiarity. When his eye was pressed by Dr. Gordon, he stretched out his arm, as if to denote that the pressure reminded him of the operation performed at the most distant place which he had visited. When he wishes for meat, he points to the place where he knows it to be; and when he was desirous of informing his friends that he was going to a shoemaker's shop, he imitated the action of making shoes. But though no information is intentionally communicated to him without touching some part of his body, he did not attempt in any of these cases to touch that of others. To say that he addressed these signs to their sight would be incorrect; but he must have been conscious that they were endowed with some means of interpreting signs without contact, by an incomprehensible faculty which nature had refused to him.”

* * * * *

“As the materials of all human thought and reasoning enter the mind, or arise in it at a period which is prior to the operation of memory, and under the simultaneous action of *all* the senses, it is extremely difficult to ascertain what perceptions belong originally and exclusively to each of the organs of external sense. Our notion of every object is made up of the impressions which it makes on all the organs. Whatever may be thought of the mental acts which originally unites these various impressions, it seems evident that, in the actual state of every human understanding, the labour is to disunite them. Every common man thinks of them, and employs them in their compound state. To analyse them is an operation suggested by philosophy; and which, in the usual state of things, must always be most imperfectly performed. A man who, from the beginning, had all his senses complete, must have had all these impressions; and never can banish any of them from his mind.

He can, indeed, attend to some of them so much more than to others, that he may seem to exclude altogether that which he neglects. But to the perceptions of which he is conscious much will adhere, composed of ingredients so minute and subtle, as to elude the power of will, and to escape the grasp of consciousness. He can approach analysis only by efforts of attention very imperfectly successful, and by suppositions often precarious, and, when pressed to their ultimate consequences, often also repugnant and inconceivable. For such purposes some philosophers have imagined intelligent beings with no other sense than that of vision; and others have represented their own hypothesis respecting the origin and progress of perception, under the history of a statue *successively* endowed with the various organs of sense. It is evident, however, that such suppositions can do no more than illustrate the peculiar opinions of the supposer, and cannot prove that which, in the nature of things, they pre-suppose.

“But when one inlet is entirely blocked up, we then really see the variation in the state of the compound, produced by the absence of part of its ingredients; and hence it has happened, that the cure and education of the deaf and blind, besides their higher character among the triumphs of civilised benevolence, acquire a considerable, though subordinate, value, as almost the only great experiments which metaphysical philosophy can perform. Even these experiments are incomplete. Knowledge, opinion, and prejudice, are infused into the blind through the ear; and when they are accustomed to employ the mechanism of language, they learn the use of words as signs of things unknown, and speak with coherence and propriety on subjects where they may have no ideas. To fix the limits of the thoughts of a blind man who hears and speaks, is a problem beyond the reach of our present attainments in philosophy. That Saunderson and Blacklock could use words correctly and consistently, without corresponding ideas, seems to be certain; but how far their privation of thought extended beyond the province of light and colours, we do not seem yet to possess the means of determining. On the other hand, the deaf employ the sense of sight,—the most rapid and comprehensive of the subordinate faculties, of the highest importance for the direct original information which it conveys, as well as for the great variety of natural signs of which it takes cognisance, and for the conventional signs which the abbreviation of its natural language supplies. *Massieu*, evidently a mind of a far higher order than that of the poet or the mathematician whom we have mentioned, is also excluded from less knowledge; and if he were to reason on the theory of sound, there appears no ground for expecting that he might not employ his words with as much exactness as Sanderson displayed in the employment of algebraic signs. The information conveyed by the ear, respecting the condition of outward objects, is comparatively small. But its great importance consists in being the organ which renders it possible to use a conventional language on an extensive scale, and under almost all circumstances. The eye is the grand interpreter of natural signs. A being almost entirely deprived of both is a new object of philosophical examination.”

Sir James Mackintosh had not witnessed the theatric exhibitions of *Massieu* at the school of the deaf and dumb in Paris, when he thus supposed him to possess a higher order of mind than Sanderson. The prodigy in *Massieu* was his dictating by signs, with the precision and rapidity of speech, to another deaf and dumb pupil who wrote down the verses of Voltaire or Racine, in the “*Henriade*” or the “*Andromaque*.” But this proved rather the perfection

to which the language of signs had been brought, than the capacity of those who executed the process. His definitions of terms expressing complex ideas were fanciful or sentimental, rather than metaphysical or correct; his understanding of the vocabulary of the French language was limited and uncertain; he gave no proof of his being more than ordinarily endowed with the reasoning and inventive power.

The next appearance of Sir James is in the number dated October, 1813, as the reviewer of "Poems by Samuel Rogers." He speculates upon the philosophy of poetry as follows:—

"It may seem very doubtful, whether the progress and the vicissitudes of the elegant arts can be referred to the operation of general laws, with the same plausibility as the exertions of the more robust faculties of the human mind, in the severer forms of science and of useful art. The action of fancy and taste seems to be affected by causes too various and minute to be enumerated with sufficient completeness for the purposes of philosophical theory. To explain them may appear to be as hopeless an attempt as to account for one summer being more warm and genial than another. The difficulty must be owned to be great. It renders complete explanations impossible; and it would be insurmountable, even in framing the most general outline of theory, if the various forms assumed by imagination, in the fine arts, did not depend on some of the most conspicuous as well as powerful agents in the moral world. They arise from revolutions of popular sentiments. They are connected with the opinions of the age, and with the manners of the refined class, as certainly, though not as much, as with the passions of the multitude. The comedy of a polished monarchy never could be of the same character with that of a bold and tumultuous democracy. Changes of religion and of government, civil or foreign wars, conquests which derive splendour from distance, or extent, or difficulty; long tranquillity;—all these, and, indeed, every conceivable modification of the state of a community, show themselves in the tone of its poetry, and leave long and deep traces on every part of its literature. Geometry is the same, not only at London and Paris, but in the extremes of Athens and Samarcand. But the state of the general feeling in England, at this moment, requires a different poetry from that which delighted our ancestors in the time of Luther or Alfred. It ought to be needless to guard this language from misconception, by an observation so obviously implied, as that there are some qualities which must be common to all delightful poems of every time and country.

"During the greater part of the eighteenth century, the connexion of the character of English poetry with the state of the country was very easily traced. The period which extended from the English to the French Revolution was the golden age of authentic history. Governments were secure; nations tranquil; improvements rapid; manners mild beyond the example of any former age. The English nation, which possessed the greatest of all human blessings, a wisely-constructed popular government, necessarily enjoyed the largest share of every other benefit. The tranquillity of that fortunate period was not disturbed by any of those calamitous, or even extraordinary, events, which excite the imagination and inflame the passions. No age was more exempt from the prevalence of any species of popular enthusiasm. Poetry, in this state of things, partook of that calm, argumentative, moral, and directly useful character, into which it naturally subsides, when there

are no events which call up the higher passions; when every talent is allured into the immediate service of a prosperous and improving society; and when wit, taste, diffused literature, and fastidious criticism, combine to deter the young writer from the more arduous enterprise of poetical genius. In such an age, every art becomes rational. Reason is the power which presides in a calm; but reason guides rather than impels; and though it must regulate every exertion of genius, it never can rouse it to vigorous action."

It may be doubted, from the foregoing passage, whether the mind and habits of Sir James Mackintosh were not better suited to generalise upon morals and metaphysics than upon works of imagination and taste. The reader may ask himself how far he is enlightened by this passage, and will, perhaps, detect some obvious truisms disguised in the vocabulary of speculation. It is easy to perceive that he was already touched with the German fashion of literary criticism, but without those abstruse principles, the difficulty of fathoming which may arise from darkness as well as from depth. Having followed the progress of poetry, and traced the history of taste, from the rude ages to his own time, he thus characterises the genius of two living poets, then objects of distant gaze to the reading public, and inhaling in person the luxurious incense of fashionable society in London. Of Byron he says,—

"Even the direction given to the traveller by the accidents of war has not been without its influence. Greece, the mother of freedom and of poetry in the West, which had long employed only the antiquary, the artist, and the philologist, was at length destined, after an interval of many silent and inglorious ages, to awaken the genius of a poet. Full of enthusiasm for those perfect forms of heroism and liberty, which his imagination had placed in the recesses of antiquity, he gave vent to his impatience of the imperfections of living men and real institutions, in an original strain of sublime satire, which clothes moral anger in imagery of an almost horrible grandeur; and which, though it cannot coincide with the estimate of reason, yet could only flow from that worship of perfection, which is the soul of all true poetry."

The following, with an equivocal bow in passing to the supremacy of Scott, is his sketch of Moore:—

"The tendency of poetry to become national was in more than one case remarkable. While the Scottish middle age inspired the most popular poet, perhaps, of the eighteenth century, the national genius of Ireland at length found a poetical representative, whose exquisite ear and flexible fancy wanted in all the varieties of poetical luxury,—from the levities to the fondness of love, from polished pleasantries to ardent passion, and from the social joys of private life to a tender and mournful patriotism, taught by the melancholy fortunes of an illustrious country,—with a range adapted to every nerve in the composition of a people susceptible of all feelings which have the colour of generosity, and more exempt, probably, than any other from degrading and unpoetical vices."

There is something dexterously ambiguous in the supremacy adjudged to Scott. The reflection could not escape the reader, and assuredly did not escape Sir James, that the first poets of their respective ages have rarely been the most popular. It remains to give his estimate of the accomplished poet whose name figures at the head of the review:—

“In estimating the poetical rank of Mr. Rogers, it must not be forgotten that popularity never can arise from elegance alone. The vices of a poem may render it popular, and virtues of a faint character may be sufficient to preserve a languishing and cold reputation; but to be both popular poets and classical writers, is the rare lot of those few who are released from all solicitude about their literary fame. It often happens to successful writers, that the lustre of their first productions throws a temporary cloud over some of those which follow. Of all literary misfortunes, this is the most easily endured, and the most speedily repaired. It is generally no more than a momentary illusion produced by disappointed admiration, which expected more from the talents of the admired writer than any talents could perform.

“Mr. Rogers has long passed that period of probation, during which it may be excusable to feel some painful solicitude about the reception of every new work. Whatever may be the rank assigned hereafter to his writings, when compared to each other, the writer has most certainly taken his place among the classical poets of his country.”

The supposition is more than poetically probable, that, on the evening of the day on which this solemn arbitration of poetical claims was promulgated to the town, the judge and the parties regaled together unmasked. It has been said of the Roman augurs, that they could scarcely have met without laughing in each other's faces. The history of priestcraft would not afford more edifying disclosures than the history of reviews. But profane intrusion upon the one may be as inadvisable as upon the other, and periodical criticism would not the less remain what it is,—the great standing mystification of the age. Lord Byron, in the journal kept by him at this period, records the event with a gravity which shows that a person endowed with the quickest and most unscrupulous sense of humour and the ridiculous may be insensible to both where he is himself concerned. “Redde,” says he, “the Edinburgh Review of Rogers; he is ranked highly, but where he should be. There is a summary view of us all,—Moore and me among the rest; and both (the first justly) praised, though by implication (justly again) placed beneath our memorable friend. Mackintosh is the writer, and also of the critique on Staël. His grand essay

on Burke, I hear, is for the next number." * Sir James's grand essay on Burke was never written.

The same number contains his review of the "Germany" of Madame de Staël. The vogue of Madame de Staël, the curiosity of the public respecting the work, and the reputation of the reviewer, soon proclaimed to be Sir James Mackintosh, made the article an object of particular notice; its popularity was such, that it was soon republished in the form of a pamphlet. It is easy to see that where Sir James pronounces on the merits of the lady, and of the book, he must have drawn upon his skill in panegyric rather than upon his literary conscience; and that therefore his opinions on the general subject are the more valuable, whilst his compliments may be the more ingenious, parts of his review. After adverting to the state and progress of literature in other nations, he says of Germany,—

"But Germany remained a solitary example of a civilised, learned, and scientific nation without a literature. The chivalrous ballads of the middle age, and the efforts of the Silesian poets in the beginning of the seventeenth century, were just sufficient to render the general defect more striking. French was the language of every court; and the number of courts in Germany rendered this circumstance almost equivalent to the exclusion of German from every society of rank. Philosophers employed a barbarous Latin, as they had throughout all Europe, till the Reformation had given dignity to the vernacular tongues, by employing them in the service of religion; and till Montaigne, Galileo, and Bacon broke down the barriers between the learned and the people, by philosophising in a popular language, the German language continued to be the mere instrument of the most vulgar intercourse of life. Germany had, therefore, no exclusive mental possession; for poetry and eloquence may, and in some measure must, be national: but knowledge, which is the common patrimony of civilised men, can be appropriated by no people.

"A great revolution, however, at length began, which in the course of half a century terminated in bestowing on Germany a literature, perhaps the most characteristic possessed by any European nation. It had the important peculiarity of being the first which had its birth in an enlightened age. The imagination and sensibility of an infant poetry were singularly blended with the refinements of philosophy. A studious and learned people, familiar, in the poets of other nations, with the first simplicity of nature and feeling, were too often tempted to seek novelty in the singular, the excessive, and the monstrous. Their fancy was attracted towards the deformities and diseases of moral nature; the wildness of an infant literature, combined with the eccentric and fearless speculations of a philosophical age. Some of the qualities of the childhood of art were united to others which usually attend its decline. German literature, various, rich, bold, and at length, by an inversion of the usual progress, working itself into originality, was tainted

* Journal of Lord Byron, in Moore's Life. He uses the spelling "redde, throughout this Journal, from affectation, or because his mind unconsciously became imbued with arcaisms in composing "Childe Harold."

with the exaggeration natural to the imitator, and to all those who know the passions rather by study than by feeling."

The following may be taken as a sample of his skill in compliment:—

"The voice of Europe has already applauded the genius of a national painter in the author of *Corinne*; but it was there aided by the power of a pathetic fiction—by the variety and opposition of national character—and by the charm of a country which unites beauty to renown. In the work before us she has thrown off the aid of fiction. She delineates a less poetical character, and a country more interesting by expectation than by recollection.

"But it is not the less certain that it is the most vigorous effort of her genius, and probably the most elaborate and masculine production of the faculties of woman. What other woman indeed, or (to speak the truth without reserve) what living man could have preserved all the grace and brilliancy of Parisian society in analysing its nature—explained the most abstruse metaphysical theories of Germany precisely yet perspicuously and agreeably, and combined the eloquence which inspires the most pure, the most tender, and the most sublime sentiments of virtue, with the enviable talent of gently indicating the defects of men or nations, by the skilfully softened touches of a polite and merciful pleasantry?"

It is said that people are most pleased with being complimented upon qualities which are generally denied them. The women of Paris denied Madame de Staël the graces which she affected; they pronounced her a Swiss, a German, a genius—any thing but a Frenchwoman—and this proscription of the sex is said to have mortified her more than the persecutions of Napoleon and his marble-hearted minister of police. Sir James appears to have had this in view when he complimented her on "the grace and brilliancy of Parisian society," and on "the skilfully softened touches of a polite and merciful pleasantry." She loved what the French call representation, and was by no means fastidious as to her audience. Her conversation was unfeminine, ambitious, and laboured, like her books; and Sir James must have been strangely fascinated, when he imagined that he saw polite pleasantry or Parisian grace in either. It was a common saying through literary Europe at the time,—and then only—for the saying and the book have since been permitted to sink into repose,—that Madame de Staël was aided by one of the Schlegels in the composition of her work. There are reasons for supposing that this was an injustice. Such charges, in the first place, are easily and eagerly made. In the next place, persons qualified to speak with authority of German scholarship pretended to discover in the work the imperfect ac-

quaintance of a foreign writer with the German language and literature; the adepts in German metaphysics and mysticism denied the author of "Germany" the honours of initiation; and the amateurs of the German drama would not admit that the author sounded the depths of Goëthe. The question between the judgment of the reviewer in her favour on the one side, and the lapse of time which is against her on the other, may be left undecided. There is a remark of Sir James which well deserves to be repeated and remembered:—"In a comprehensive system of literature," says he, "there is sufficient place for the irregular works of sublime genius, and for the faultless models of classical taste." Assuredly there is; toleration is right in literature as well as in religion, however desirable it may be that false principles should not prevail in either. Yet, in this very article, a trait of literary intolerance has, by a most rare exception, escaped Sir James. "There is," says he,

"A writer now alive, in England, who has published doctrines not dissimilar to those which Madame de Staël ascribes to Schelling. Notwithstanding the allurements of a singular character, and an unintelligible style, his paradoxes are, probably, not known to a dozen persons in this busy country of industry and ambition. In a bigoted age, he might have suffered the martyrdom of Vanini or Bruno. In a metaphysical country, where a publication was the most interesting event, and where twenty universities, unfettered by church or state, were hotbeds of speculation, he might have acquired celebrity as the founder of a sect."

It is unnecessary to name the object of this allusion to those who are at all conversant with the matter, and the knowledge would be thrown away upon those who are not. He is the only man of letters between whom and Sir James Mackintosh any expressed alienation is known to have existed.

His next article is on Stewart's "View of the Progress of Metaphysical Science," in the Supplement to the "Encyclopædia Britannica." It will be found in the number of the "Edinburgh Review," dated September, 1816, and opens with the following character of Bacon:—

"Though there are passages in the writings of Lord Bacon more splendid than the above, few, probably, better display the union of all the qualities which characterised his philosophical genius. He has, in general, inspired a fervour of admiration which vents itself in indiscriminate praise, and is very adverse to a calm examination of the character of his understanding, which was very peculiar, and on that account described with more than ordinary imperfection, by that un-

fortunately vague and weak part of language which attempts to distinguish the varieties of mental superiority. To this cause it may be ascribed, that perhaps no great man has been either more ignorantly answered, or more unconstructively commended. It is easy to describe his transcendent merit in general terms of commendation ; for some of his great qualities lie on the surface of his writings. But that in which he most excelled all other men was in the range and compass of his intellectual view—the power of contemplating many and distant objects together, without indistinctness or confusion—which he himself has called the discursive or comprehensive understanding. This wide-ranging intellect was illuminated by the brightest fancy that ever contented itself with the office of only ministering to Reason ; and from this singular relation of the two grand faculties of man, it has resulted, that his philosophy, though illustrated still more than adorned by the utmost splendour of imagery, continues still subject to the undivided supremacy of intellect. In the midst of all the prodigality of an imagination which, had it been independent, would have been poetical, his opinions remained severely rational.

“ It is not so easy to conceive, or at least to describe, other equally essential elements of his greatness, and conditions of his success. He is probably a single instance of a mind which, in philosophising, always reaches the point of elevation whence the whole prospect is commanded, without ever rising to such a distance as to lose a distinct perception of every part of it. It is, perhaps, not less singular, that his philosophy should be founded at once on disregard for the authority of men, and on reverence for the boundaries prescribed by nature to human enquiry ; that he who had thought so little of what man had done, hoped so highly of what he could do ; that so daring an innovator in science should be so wholly exempt from the love of singularity or paradox ; that the same man who renounced imaginary provinces in the empire of science, and withdrew its landmarks within the limits of experience, should also exhort posterity to push their conquests to its utmost verge, with a boldness which will be fully justified only by the discoveries of ages from which we are yet far distant.

“ No man ever united a more poetical style to a less poetical philosophy. One great end of his discipline is to prevent mysticism and fanaticism from obstructing the pursuit of truth. With a less brilliant fancy, he would have had a mind less qualified for philosophical enquiry. His fancy gave him that power of illustrative metaphor, by which he seemed to have invented again the part of language which respects philosophy ; and it rendered new truths more distinctly visible even to his own eye, in their bright clothing of imagery. Without it, he must, like others, have been driven to the fabrication of uncouth technical terms, which repel the mind, either by vulgarity or pedantry, instead of gently leading it to novelties in science, through agreeable analogies with objects already familiar. A considerable portion, doubtless, of the courage with which he undertook the reformation of philosophy was caught from the general spirit of his extraordinary age, when the mind of Europe was yet agitated by the joy and pride of emancipation from long bondage. The beautiful mythology, and poetical history of the ancient world, not yet become trivial or pedantic, appeared before his eyes in all their freshness and lustre. To the general reader they were then a discovery as recent as the world disclosed by Columbus. The ancient literature, on which his imagination looked back for illustration, had then as much the charm of novelty, as that rising philosophy through which his reason dared to look onward to some of the last periods in its unceasing and resistless course.

“ In order to form a just estimate of this wonderful person, it is essential to fix steadily in our minds what he was not, what he did not do, and what he professed neither to be nor to do. He was not what is called a metaphysician. His plans

for the improvement of science were not inferred by abstract reasoning from any of those primary principles to which the philosophers of Greece struggled to fasten their systems. Hence he has been treated as empirical and superficial by those who take to themselves the exclusive name of profound speculators. He was not, on the other hand, a mathematician, an astronomer, a physiologist, a chemist. He was not eminently conversant with the particular truths of any of those sciences which existed in his time. For this reason, he was underrated by men of the highest merit, who had acquired the most just reputation by adding new facts to the stock of certain knowledge. It is not, therefore, very surprising to find that Harvey, though the friend as well as physician of Bacon, 'though he esteemed him much for his wit and style, would not allow him to be a great philosopher;' but said to Aubrey, 'He writes philosophy like a Lord Chancellor,'—'in derision,' as the honest biographer thinks fit expressly to add. On the same ground, though in a manner not so agreeable to the nature of his own claims on reputation, Mr. Hume has decided, that Bacon was not so great a man as Galileo, because he was not so great an astronomer. The same sort of injustice to his memory has been more often committed than avowed, by professors of the exact and the experimental sciences, who are accustomed to regard, as the sole test of service to knowledge, a palpable addition to its store. It is very true that he made no discoveries; but his life was employed in teaching the method by which discoveries are made. This distinction was early observed by that ingenious poet and amiable man, on whom we, by our unmerited neglect, have taken too severe a revenge for the exaggerated praises bestowed on him by our ancestors:—

'Bacon, like Moses, led us forth at last;
The barren wilderness he pass'd,
Did on the very border stand
Of the blest promised land;
And from the mountain top of his exalted wit,
Saw it himself, and show'd us it.'"

COWLEY'S Ode to the Royal Society.

This eloquent delineation is worthy of its illustrious subject. But the claims of Bacon, as a discoverer, are mistaken or over-rated by popular admirers, and by Sir James Mackintosh. The Baconian, or strictly inductive, method of philosophising, was practised by some of the most distinguished philosophers of his own age, and of that which immediately preceded him. Copernicus had discovered by it the motions of the solar system. Galileo had investigated by it the laws which prevail in the descent of heavy bodies and in the motion of projectiles. But the most conclusive and splendid example of the rigorous, persevering, and successful application of the inductive method of philosophising, was exhibited in the discovery of those three celebrated laws of the planetary motions, called Kepler's laws, which contain the hidden germ of Newton's great law of gravitation. Bacon, though little acquainted with mathematics and physics, may have perceived the principle of reformation which was practised by these illustrious

discoverers,—practised by them, perhaps unconsciously,—certainly without recognising and developing it in that general form in which it is associated with the name of Bacon. It is a fact worthy of notice, that Bacon vehemently opposed some of the very discoveries which were made by the application of his own method. His vain effort to refute the Copernican system is a striking instance. His own attempts in physics were few, and those few signal failures. His merit, in fine, consisted in discovering and recording the universality of a method of investigating nature, the principles of which had already in several instances been applied with eminent success. It was his fortune to teach it at so early a period as to be confounded in point of time with those who first practised it, and to do so with a captivating eloquence, which diverted his readers from a severe examination of his claims as a discoverer.

The continuation of the same discourse, in a subsequent volume of the *Encyclopædia*, was reviewed by Sir James in the *Edinburgh Review*, dated June, 1821. The subject of those articles is not popular: his treatment of it scarcely admits of extracts; and the expression of his opinions on speculative science in the two papers is, to a certain extent, superseded by his subsequent dissertation in the *Edinburgh Encyclopædia*. The same number contains a review by him of Sir George Mackenzie's *Memoirs of the Affairs of Scotland*. It was the fortune of this article to call forth Dr. Wordsworth's essay in support of the claims of Charles I. to the authorship of the *Eikon Basilike*. Sir James reviewed the essay in the *Edinburgh Review*, dated June, 1826, and stripped the royal martyr of all title to that juggling piece of sanctified deceit. Nothing, indeed, but zeal, credulity, and imposture continued the belief that Charles was the author, after the exposure of the forgery made by Milton.

Sismondi's *History of the French* was reviewed by Sir James Mackintosh in the number dated July, 1821. Such an article should be interesting, as the judgment formed by one historic mind of another. The reviewer, it is true, is estimating in the historian his private friend; but there is here no necessity for those compliments and compromises, those dexterous ambiguities and evasive generalities, which are requisite in managing the jealous friendship and pampered susceptibilities of a fashionable poet. Sir James begins by deploring, as he frequently did in his writings and

speeches, the want of a complete publication of the ancient records, and other not easily accessible materials, of English history. The task was, partly through his means, at last begun. But this literary exhumation is unfortunately too slow, cumbrous, and costly, to answer its ends. Sir James assumes the want of historic talent in France, and thus accounts for it:—

“It would be difficult, perhaps, to devise a plausible reason for the want of historical talent among a nation like the French, eminently distinguished in almost every other department of literature. Though history requires freedom more than most exertions of the human mind, yet the form of the French government does not, perhaps, sufficiently explain this singular deficiency. Even the great historian who ascribes to slavery the fall of Roman history, after the usurpation of Augustus, has justly added, that historical truth was then violated, not only by the base flatterers of tyrants, but more dangerously, because more speciously, by the indignation which tyranny excited. The milder monarchies of modern times neither exacted such undistinguishing adulation, nor inspired such strong abhorrence. Absolute monarchy, however, in its most moderate form, is, no doubt, destructive of the free spirit which is the soul of history: and it is remarkable that, as long as an irregular liberty was kept up by civil wars and religious controversies, France produced considerable historians; it was not till the establishment of a polished and peaceable despotism in the boasted age of Louis XIV., that the voice of history was utterly silenced. He, indeed, employed men of genius to compose the history of his reign, but he was ignorant that their genius must forsake them in the composition of a narrative which was to be approved by their master, when they were degraded in their own eyes by the consciousness of dependence and partiality. It did not escape the sagacity of Tacitus, that the decline of history under the Imperial government was in part caused by the exclusion of the people from public affairs. In popular states, even where the historian himself has no direct experience of public business, he at least breathes an atmosphere full of political traditions and debates; he lives with those who think and speak more of them than of most other subjects. He cannot be an utter stranger to the spirit of civil prudence. Under absolute monarchies, on the other hand, the few who know the causes of events are either afraid to write, or see no importance in any thing but the intrigues by which they obtain and preserve power; and the task of writing history is necessarily abandoned either to mere compilers, or to sophists and rhetors, who, of all men, are the most destitute of insight into character, and of judgment in civil affairs.

“Another cause of the decay or absence of historical talent in France is probably to be found in the want of habits of research among their late popular writers. The genius of history is nourished by the study of original narrators, and by critical examination of the minute circumstances of facts. Ingenious speculation and ostentatious ornament are miserable substitutes for these historical virtues; and their place is still worse supplied by the vivacity or pleasantry which, where it is most successful, will most completely extinguish that serious and deep interest in the affairs of men, which the historian aims to inspire. An historian is not a jester or a satirist; it is not his business to sneer or laugh at men, or to lower human nature. It is by maintaining the dignity of man, and the importance of his pursuits, that history creates a fellow-feeling with his passions, and a delight in contemplating his character and actions.”

The first part of this extract is not merely just, but obvious. The veracity of a king's historiographer is as doubtful as that of his poet-laureate; but was Sir James warranted in supposing, or, rather, in insinuating, in the latter part, that the age of Louis XIV. did not find an historian in France? It would have been more fair to the reader to have at once named Voltaire. Nothing is more common than denying the merit of research to versatility of genius, and to that quick sagacity, which can seize by a *coup d'œil* more than another mind could achieve in a life of plodding and detail. Speculation, because it is ingenious, is not therefore unsound: ostentatious ornament does not, and could not, exist in a work which is regarded as a standard of pure style and taste. Voltaire and Tacitus are satirists, but not the less historians: the one is no more a jester than the other, though his tone is sometimes less severe. It is not the historian who lowers human nature, but human nature that too frequently lowers itself. It would be right to maintain the dignity of man, and the importance of his pursuits, if man always had dignity, and his pursuits importance. In fine, though the historic genius of Voltaire has been unceasingly depreciated and denied, his "Age of Louis XIV.," and the "Essay on General History," of which it forms a part, continue to be the most prized and popular work extant in the philosophy of history.

Sir James, in this article, estimates highly and justly the historic capacity of his friend. It is to be regretted that he did not sketch the distinctive character of one whose name, though living, has become classic among historians; and it is strange that, from want of sympathy, or from false prudence, he did not bring out that antique and republican tone which characterises every work of the historian of the Italian Republics.

It is time to resume the career of Sir James Mackintosh in Parliament. His speeches were few and short during the remainder of the session of 1813-14. The year was one of the most memorable in the annals of Europe. France was vanquished, Napoleon was dethroned, and the allied sovereigns already began the work of dismemberment and spoliation under the name of deliverers. But the House of Commons, intoxicated like the people with the fumes of military glory, was not yet in a state to hear words of truth and soberness. Sir James Mackintosh, therefore, however anxious to recover lost ground in St. Stephen's Chapel, had few oppor-

tunities. Sir Samuel Romilly brought in a bill for doing away with one of the most odious and absurd devices of barbarous jurisprudence—the corruption of blood. He was supported by Sir James Mackintosh, who treated the subject with the information of a lawyer and the views of a philosopher: it was his first step as the fellow-labourer of Sir Samuel Romilly in the task of civilising or humanising the criminal code of England. The chief opponent of the bill was Mr. Yorke, who deprecated the repeal of a law so ancient and venerable, and regarded the bill as “a slur on the mildness of his Majesty’s reign.” A few sentences from the reply of Sir James Mackintosh will afford a characteristic specimen of his parliamentary eloquence.

“I admit the antiquity of the present law; it is ancient as any other of our laws relating to high treason; but it is not more ancient than the law enacting the infliction of the *peine forte et dure*; it is not more ancient than the statute *de heretico comburendo*; it is not more ancient than the sentence for burning women convicted of petit treason, nor is it more ancient than any other of those disgraceful and oppressive statutes which formed the whole of the feudal system. It is asked, what necessity there is for altering the law in this respect? I would answer, the same necessity that there is for repealing the law for the infliction of torture, for the burning of women, or the burning of heretics—the necessity, that in a humane and enlightened age and country the laws should not be sullied, the heart hardened, and the understanding insulted, with barbarous and absurd enactments—a necessity the loudest, the most imperious, and the most indisputable of all others.”

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“We are informed by Bishop Burnet, that when he wished to propose the repeal of the confiscating laws, in 1716, he was told that such a repeal would be proper in good times, but that circumstances then rendered them necessary; and by whom was he told so? By Lord Somers and Lord Cowper, who were at that time the lights and ornaments of their country. The circumstance which in their minds must have weighed against the immediate repeal of those laws was the French invasion of Scotland the preceding year (1715), in favour of the Pretender; so that it appeared to them, who were the framers and supporters of this very bill, that any extension of it beyond a period of imminent danger and alarm was a violation of the principle on which it was brought in. In 1745, half a century after its first introduction, Lord Hardwicke had made a declaration to the same effect, when he restricted the necessity of the continuance of the bill to the Pretender’s lifetime; and it appears from the debates of that period (lately published), as well as from the preamble of the bill itself, that it was only intended to meet the pressure of circumstances, and was regarded as a rigorous and violent measure, unworthy of ‘good times.’ From the year 1709 to the year 1799, I stand on the authority of the greatest lawyers and statesmen that this country has produced, that the bill is to be considered as a temporary and accidental expedient, and not as a necessary and fundamental part of the law of the land; and that the making it general and unconditional in 1799 was the real innovation; for that is an innovation which alters the existing law.”

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“ To suppose that a law like that under the consideration of the committee would have the effect of deterring a man from the commission of a crime; to imagine that this law, through which a person unborn might, some fifty or a hundred years after the criminal's decease, miss an estate which he might otherwise have gained,—is to entertain an expectation more wild and extravagant than has ever been dreamt by the wildest sophists while forming visionary schemes of government. No stronger case was necessary to show the impropriety of continuing this law than one which an hon. and learned gentleman (Mr. Plunkett) has brought forward; where, through corruption of blood, an estate was lost to the children of an officer in his Majesty's army, who had been engaged in suppressing the Rebellion, in which his relation was concerned. This hardship has been endured to maintain the beautiful theory, that the corrupted blood of a traitor could not be a channel for the transmission of any property. For this, the children of an officer who had devoted his life to the cause of loyalty were to be made beggars; as if it were not enough that their unfortunate parent should draw his sword against his kinsman, and probably be placed in the distressing situation of unconsciously depriving his relation of life. Can it be thought that it is no hardship for the children of such an officer to go on their knees to beg that bread, which, but for this law, they might have claimed as their right? I do not wish to asperse those through whom the bounty of the Crown is exerted; but I should despise that man who did not feel it a degradation to be compelled to implore that bounty. To be placed in this situation was revolting to the pride of an Englishman—to those feelings which had made this country what it now is, and what I trust in God it will ever remain.”

High and petty treasons were excepted from the provisions of the bill. In a second bill, for doing away with the unspeakable horrors of the scaffold in executions for high treason, an amendment was introduced, that to the words “and there be hanged” should be added, “and there be beheaded,”—and thus guarded by the practical wisdom of those who think terror the “divinity that doth hedge a king,” and who even mistake for terror what is at once inhuman and inoperative, both bills passed into law.

Of the violent avulsions and annexations of independent but weak communities by the new arbiters of Europe, on the fall of Napoleon, but one was brought, during this session, under the notice of Parliament: it was the case of Norway, transferred from the crown of Denmark to that of Sweden. The hopeless insurrection of the Norwegians, and the blockade of their ports by a British fleet, will be remembered. The latter was brought before the House of Commons by Mr. W. Wynne, on the 12th of May. A question so interesting to Sir James Mackintosh, from his sense of public justice and knowledge of public right, could not have passed untouched by him. His speech on this, as on many subsequent occasions, appears to have been imperfectly reported. He lays down the principle of right as follows:—

“Puffendorff holds, that a prince might withdraw his garrisons ; might recall his officers ; and might transfer his own right to another ; but that he could not cede or sell men. He could not, in fact, carry on a white slave trade. The commonwealth, no matter under what form it was administered,—whether by a senate, a king, or any other authority,—was the patrimony of the people. Their rights could not be transferred without their consent.”

The blockade was called “merciful” by Mr. Stephen. He was thus answered by Sir James:—

“Whether the insurrection in Norway were the act of the Norwegian people, or the work of a mere faction, had, it seemed, become a question ; and this question the British ministers proposed truly to decide by starving the whole, in order to render them unanimous ! Yet this was denominated, by his learned friend who spoke last, a merciful war. What ! that war merciful which threatened to famish a people, only because they loved their country, and refused to submit to a foreign power which they detested—only because they preferred independence to subjugation ; and he heartily wished they might succeed in maintaining that independence.”

He took a more conspicuous and important share in the debates of the following year. The war with America terminated early in the session. A wretched triumph in that disreputable war—the devastation of the city of Washington—is noticed and stigmatised by him as follows:—

For every justifiable purpose of present warfare it was almost impotent. To every wise object of prospective policy it was hostile. It was an attack, not against the strength or the resources of a state, but against the national honour and public affections of a people. After twenty-five years of the fiercest warfare, in which every great capital of the European continent had been spared, he had almost said respected, by enemies, it was reserved for England to violate all that decent courtesy towards the seats of national dignity, which, in the midst of enmity, manifests the respect of nations for each other, by an expedition deliberately and principally directed against palaces of government, halls of legislation, tribunals of justice, repositories of the muniments of property and of the records of history ; objects among civilised nations exempted from the ravages of war, and secured, as far as possible, even from its accidental operation, because they contribute nothing to the means of hostility, but are consecrated to purposes of peace, and minister to the common and perpetual interest of all human society. It seemed to him an aggravation of this atrocious measure, that ministers had attempted to justify the destruction of a distinguished capital, as a retaliation for some violences of inferior American officers, unauthorised and disavowed by their government, against he knew not what village in Upper Canada. To make such retaliation just, there must always be clear proof of the outrage ; in general, also, sufficient evidence that the adverse government refused to make due reparation for it ; and at least, some proportion of the punishment to the offence. Here there was very imperfect evidence of the outrage ; no proof of refusal to repair ; and demonstration of the excessive and monstrous iniquity of what was falsely called retaliation. The value of a capital

is not to be estimated by its houses, and warehouses, and shops. It consisted chiefly in what could be neither numbered nor weighed. It was not even by the elegance or grandeur of its monuments that it was most dear to a generous people. They looked upon it with affection and pride, as the seat of legislation, as the sanctuary of public justice, often as linked with the memory of past times, sometimes still more as connected with their fondest and proudest hopes of greatness to come. To put all these respectable feelings of a great people, sanctified by the illustrious name of Washington, on a level with half a dozen wooden sheds in the temporary seat of a provincial government, was an act of intolerable insolence, and implied as much contempt for the feelings of America as for the common sense of mankind."

The chief object of this speech, on the treaty with the United States, seems to have been the popularity of his name in America; and he completely succeeded. His reputation appears to have been exalted, and his name cherished with partial kindness, by the Americans, from this period to his death.

The marvellous episode of the escape of Napoleon drew from him an eloquent speech in support of a motion on the subject by Mr. Abercrombie. The following passage may be cited as a specimen of his employment of sarcasm as a weapon of debate—in the use of which, without being distinguished, he was by no means inexpert:—

"But the most serious question undoubtedly remained! Napoleon was an independent prince. It would be an insult to his dignity to watch his movements. It would be a violation of his independence to restrain them. They who had starved Norway into subjection—they who sanctioned the annihilation of Poland, and the subjugation of Venice—they whose hands were scarcely withdrawn from the instrument which transferred Genoa to a hated master—were suddenly seized with the most profound reverence for the independent sovereign of Elba, and shrunk with horror from the idea of saving the peace of Europe by preventing the departure of Napoleon Bonaparte from Porto Ferrajo! He must believe, that if the danger had been discussed at the Congress of Vienna, and if any paradoxical minister had made any scruples about the independence of Elba, his scruples would have been received with a general laugh. Count Nesselrode could quote the precedent of Stanislaus at Moscow. Prince Talleyrand would have been ready with that of Ferdinand at Valencay. The Congress would scarcely have avowed that all their respect for independence was monopolised by Napoleon."

The speech delivered by him in this session, on the transfer of Genoa, is among the ablest which he made in parliament. It was his own motion; and he now appears, for the first time, put forward and supported by the great body of the Whigs. His speech is an elaborate composition: he seems to have felt that his reputation would rise or fall with the event. It may be necessary to state briefly the circumstances under which Genoa was annexed

to Sardinia. Lord William Bentinck, representative of the English government in Italy, called upon the Italians, in the name of independence and their country, to expel the French. They trusted to this pledge of British faith and honour. It was redeemed by consigning Venice and the whole of Lombardy to the barbarian despotism of Austria, and Genoa to the odious and despised sovereignty of Sardinia. The Genoese had a much stronger case than the Milanese or Venetians. Lord William Bentinck, when occupying Genoa with British troops, in April, 1814, proclaimed "the Genoese nation restored to that ancient government under which it enjoyed liberty, prosperity, and independence;" and the ancient constitution was restored. All went on happily to the following December, when Lord Castlereagh announced to them, from the Congress of Vienna, their incorporation with the continental territories of the king of Sardinia. Genoa, "the superb," thus despoiled of her laws, liberties, independence, and existence as a state, was one of the finest subjects of popular oratory. Sir James brought to bear upon it all his resources as a student of public right and of the philosophy of history.

"What, then, will the House decide concerning the morality of compelling Genoa to submit to the yoke of Piedmont,—a state which the Genoese have constantly dreaded and hated, and against whom their hatred was sharpened by continual apprehensions for their independence? Whatever construction may be attempted of Lord William Bentinck's proclamations—whatever sophistry may be used successfully to persuade you that Genoa was disposable as a conquered territory—will you affirm that the disposal of it to Piedmont was a just and humane exercise of your power as a conqueror?"

"It is for this reason, among others, that I detest and execrate the modern doctrine of rounding territory, and following natural boundaries, and melting down small states into masses, and substituting lines of defence, and right and left flanks, instead of justice and the law of nations, and ancient possession and national feeling; the system of Louis XIV. and Napoleon, of the spoils of Poland, and the spoils of Norway and Genoa,—the system which the noble Lord, when newly arrived from the Congress, and deeply imbued with its doctrines, had delivered, in his ample and elaborate invective against the memory and principles of ancient Europe, when he condensed the whole new system into two phrases so characteristic of his reverence for the rights of nations, and his tenderness for their feelings, that they ought not easily to be forgotten,—when he told us, speaking of this very antipathy of Genoa to Piedmont, that 'great questions are not to be influenced by popular impressions;' and that 'a people may be happy without independence.' The principal article of the new system is the incorporation of neighbouring, and therefore hostile, communities. The system of justice revered the union of men who had long been members of the same commonwealth, because they had been long fellow-citizens, and had all the attachments and antipathies which grow

out of that fellowship. The system of rapine tears asunder those whom nature has joined, and compels those to unite, whom the contests of ages had rendered irreconcilable. And if all this had been less evident, would no aggravation of this act have arisen from the peculiar nature of the general war of Europe against France? It was a war in which not only the Italians, but every people in Europe, were called by their sovereigns to rise for the recovery of their independence. It was a revolt of the people against Napoleon. It owed its success to the spirit of popular insurrection. The principle of a war for the restoration of independence was a pledge that each people were to be restored to their ancient territory. The nations of Europe accepted the pledge, and shook off the French yoke. But was it for a change of masters? Was it that three foreign ministers, at Paris, might dispose of the Genoese territory,—was it for this that the youth of Europe had risen in arms from Moscow to the Rhine?—

*‘Ergo pari voto gessisti bella juvenus?
Tu quoque pro dominis et Pompeiana fuisti
Non Romana manus!’*

He assimilates the principles of the Congress of Vienna and those of the French Revolution : —

“The Congress of Vienna seems, indeed, to have adopted every part of the French system, except that they have transferred the dictatorship of Europe from an individual to a triumvirate. One of the grand and parent errors of the French Revolution was the fatal opinion that it was possible for human skill to make a government. It was an error too generally prevalent, not to be excusable. The American Revolution had given it a fallacious semblance of support, though no event in history more clearly showed its falsehood. The system of laws, and the frame of society in North America, remained after the Revolution, and remain to this day, fundamentally the same as they ever were. The change in America, like the change in 1688, was made in defence of legal right, not in pursuit of political improvement; and it was limited by the necessity of defence which produced it. The whole internal order remained, which had always been essentially republican. The somewhat slender tie which loosely joined these republics to a monarchy was easily and without violence divided. But the error of the French Revolutionists was, in 1789, the error of Europe. From that error we have been long reclaimed by fatal experience. We know, or rather we have seen and felt, that a government is not, like a machine or a building, the work of man; that it is the work of nature, like the nobler productions of the vegetable and animal world, which man may improve, and corrupt, and even destroy, but which he cannot create. We have long learned to despise the ignorance or the hypocrisy of those who speak of giving a free constitution to a people, and to explain with a great living poet—

*‘A gift of that which never can be given
By all the blended powers of earth and heaven!’*

“We have, perhaps, as usual, gone too near to the opposite error, and we do not make sufficient allowance for those dreadful cases which we must not call desperate, where, in long enslaved countries, we must either humbly and cautiously labour to lay some foundations from which liberty may slowly rise, or acquiesce in the doom of perpetual bondage on ourselves and our children.

"But though we no longer dream of making governments, the confederacy of kings seem to feel no doubt of their own power to make nations. Yet the only reason why it is impossible to make a government is, because it is impossible to make a nation. A government cannot be made, because its whole spirit and principles arise from the character of the nation. There would be no difficulty in framing a government, if the habits of a people could be changed by a lawgiver; if he could obliterate their recollections, transfer their attachment and reverence, extinguish their animosities, and correct those sentiments which, being at variance with his opinions of public interest, he calls prejudices. Now, this is precisely the power which our statesmen at Vienna have arrogated to themselves. They not only form nations, but they compose them of elements apparently the most irreconcilable. They made one nation out of Norway and Sweden: they tried to make another of Prussia and Saxony. They have, in the present case, forced together Piedmont and Genoa to form a nation which is to guard the avenues of Italy, and to be one of the main securities of Europe against universal monarchy.

"It was not the pretension of the ancient system to form states, to divide territory according to speculations of military convenience, and to unite and dissolve nations better than the course of events had done before. It was owned to be still more difficult to give a new constitution to Europe, than to form a new constitution for a single state. The great statesmen of former times did not speak of their measures as the noble Lord did about the incorporation of Belgium with Holland (against which I say nothing), 'as a great improvement in the system of Europe.' That is the language only of those who revolutionise that system by a partition like that of Poland, by the establishment of the federation of the Rhine at Paris, or by the creation of new states at Vienna. The ancient principle was to preserve all those states which had been founded by time and nature, which were animated by national spirit, and distinguished by the diversity of character which gave scope to every variety of talent and virtue; whose character was often preserved, and whose nationality was sometimes created, by those very irregularities of frontier and inequalities of strength, of which a shallow policy complained;—to preserve all those states, down to the smallest, first by their own national spirit, and, secondly, by that mutual jealousy which made every great power the opponent of the dangerous ambition of every other. It was to preserve nations, living bodies, produced by the hand of nature, not to form artificial dead machines, called states by the words and parchment of a diplomatic act. Under this ancient system, which secured the weak by the jealousy of the strong, provision was made alike for the permanency of civil institutions, the stability of governments, the progressive reformation of laws and constitutions; for combining the general quiet with the highest activity and energy of the human mind; for uniting the benefits both of rivalry and of friendship between nations; for cultivating the moral sentiments of men, by the noble spectacle of the long triumph of justice in the security of the defenceless; and, finally, for maintaining uniform civilisation by the struggle as well as union of all the moral and intellectual combinations which compose that vast and various mass. It effected these noble purposes, not merely by securing Europe against one master, but against any union or conspiracy of sovereignty, which, as long as it lasts, is in no respect better than the domination of an individual. The object of the new system is to crush the weak by the combination of the strong; to subject Europe, in the first place, to an oligarchy of sovereigns, and ultimately to swallow it up in the gulf of universal monarchy, where civilisation has always perished, with freedom of thought, with controlled power, with national character and spirit, with patriotism and emulation; in a word, with all its characteristic attributes and with all its guardian principles.

"I am content, Sir, that these observations should be thought wholly unreasonable by those new masters of civil wisdom, who tell us that the whole policy of Europe consists in strengthening the right flank of Prussia, and the left flank of Austria; who see in that wise and venerable system, long the boast and the safeguard of Europe, only the millions of souls to be given to one power, or the thousands of square miles to be given to another; who consider the frontier of a river as a better protection for a country than the love of its inhabitants; and who provide for the safety of their states by wounding the pride and mortifying the patriotic affection of a people, in order to fortify a line of military posts. To such statesmen I will apply the words of the great philosophical orator, who so long vainly laboured to inculcate wisdom in this House :—'All this, I know well enough, will sound wild and chimerical to the profane herd of those vulgar and mechanical politicians who have no place among us; a sort of people who think that nothing exists but what is gross and material; and who, therefore, far from being qualified to be directors of the great movement of empire, are not fit to turn a wheel in the machine. But to men truly initiated and rightly taught, these ruling and master principles, which in the opinion of such men as I have mentioned have no substantial existence, are in truth every thing, and all in all.'

"This great man, in the latter part of his life, and when his opinions were less popular, was often justly celebrated for that spirit of philosophical prophecy which enabled him early to discern in their causes all the misfortunes which the leaders of the French Revolution were to bring on the world by their erroneous principles of reformation,—'Quod ille pene solus Romanorum animo vidit, ingenio complexus est, eloquentia illuminavit.' But it has not been remembered, that his foresight was not limited to one party or to one source of evil. In one of his immortal writings, of which he has somewhat concealed the durable instruction by the temporary title, he clearly enough points out the first scene of partition and rapine—the indemnifications granted out of the spoils of Germany in 1802 :—'I see, indeed, a fund from whence equivalents will be proposed. It opens *another Iliad of woes to Europe.*'"

This speech might have had more vivacity and force of rhetorical movement. The labour of the pen is too apparent; and the more sanguine friends of reform in society and government will controvert his position, that a people cannot pass directly from despotism to freedom. But it remains not only a favourable, but an authentic specimen of his oratory. It was evidently prepared for publication by himself. The resolutions with which he concluded were opposed by ministers, and of course negatived.

In the session of 1816 he supported the amendment of Lord Milton, to the address moved by Lord Castlereagh on the treaties with foreign powers, in a speech of which the merit cannot be estimated from the imperfect report of it in the parliamentary debates. His speech on the army estimates, against the large military establishment proposed by ministers, contains some admirable passages. The following, on standing armies, may be cited for almost every merit of popular eloquence :—

“In despotic countries it may be necessary to maintain great armies as seminaries of warlike spirit. The mind, which in such wretched countries has no noble object to employ its powers, almost necessarily sinks into languor and lethargy when it is not roused to the destructive frenzy of war. The show of war during peace may be necessary to preserve the chief skill of the barbarian, and to keep up the only exalted feeling of the slave. The savage soon throws off habits of order, and the slave is ever prone to relapse into the natural cowardice of his debased condition. But in this mightiest of free communities, where no human faculty is suffered to lie dormant, and where habitual order and co-operation give effect to the intense and incessant exertion of power, the struggles of honourable ambition, the fair contests of political party, the enterprises of ingenious industry, the pursuits of elegant art, the fearless exercise of reason, upon the most venerable opinions, and upon the acts of the highest authorities, the race of many for wealth, and of a few for power or fame, are abundantly sufficient to cultivate those powers, and to inspire those energies which, at the approach of war, submit to discipline, and quickly assume the forms of military science and genius. A free nation, like ours, full of activity and boldness, and yet full of order, has all the elements and habits of an army, prepared by the happy frame of its society. We require no military establishments to nurse our martial spirit. It is our distinction, that we have ever proved ourselves in time of need a nation of warriors, and that we never have been a people of soldiers. It is no refinement to say that the national courage and intellect have acted with the more vigour on the approach of hostility, because we are not teased and worried into petty activity—because a proud and serious people have not been degraded in their own eyes by acting their awkward part in holiday parade. Where arms are the national occupation, the intervals of peace are times of idleness, during which a part, at least, of the people must fit themselves for the general business, by exercising the talents and qualities which it requires. But where the pursuits of peace require the highest activity, and the nature of the government calls forth the highest spirit, the whole people must always possess the materials and principles of a military character. Freemen are brave, because they rely on themselves. Liberty is our national point of honour. The pride of liberty is the spring of our national courage. The independent spirit, the high feeling of personal dignity, and the consequent sensibility to national honour,—the true sources of that valour for which this nation has been renowned for ages,—have been in a great measure created and preserved by their being accustomed to trust to themselves for defence against invasion from abroad or tyranny at home. If they lean on an army for safety, they will soon look to it with awe, and thus gradually lose those sentiments of self-respect and self-dependence—that pride of liberty—which are the peculiar and the most solid defences of this country.”

He spoke seldom, and very briefly, during the session of 1817. This may be ascribed to the state of his health, and the greater devotion of his time to his intended continuation of Hume. The frequency of his references in his speeches, during the two preceding years, to the events in the reigns of Charles II., James II., and William III., render it probable that his mind was particularly engaged with these periods. His historic arguments and illustrations, though always bearing on the subject, were not always felt or followed by those whose minds were not so informed as his own. A

treaty for the prevention of the slave trade, concluded with Spain towards the close of 1817, was taken into consideration on the 9th of February, 1818. It was strenuously supported by Sir James Mackintosh. The following eloquent passage was cheered. Rhetoric and sentiment have seldom been more happily blended.

“ For myself, I feel a pride in the British flag being, for this object alone, subjected to search by foreign ships. I think it a great and striking proof of magnanimity, that the darling point of honour of our country, the British flag itself,—which, ‘ for a thousand years, has braved the battle and the breeze’—which has never been lowered to an enemy—which has defied confederacies of nations—to which we have clung closer and closer as the tempest roared around us—the principle of our hope and safety, as well as of our glory—which has borne us through all perils, and raised its head higher as the storm assailed us more fearfully,—has now risen to loftier honour, by bending to the cause of justice and humanity. Our pride, which never shrank from the most powerful enemy—our national jealousy—our most cherished prejudices—are thus voluntarily suspended. That which has braved the mighty, now lowers itself to the feeble and defenceless—to those who, far from being able to make us any return, will never hear of what we have done for them, and, probably, are ignorant of our name.”

The question of Bank forgeries was submitted by him to the House of Commons twice in the course of this session. A series of resolutions which he proposed were adopted by the House. His next proceeding was to move a committee of enquiry. The previous exertions of Sir James Mackintosh, and of Sir Samuel Romilly from an early period, had already made such an impression on the public, that the government admitted the necessity of enquiry, and substituted, as an amendment, the appointment of commissioners under the great seal. The amendment was carried. The death of Sir Samuel Romilly, under mournful circumstances, took place before the next meeting of Parliament; and the task of proposing mitigations of the criminal code devolved solely on Sir James Mackintosh. On the 2d of March, in the following session of 1819, he moved the appointment of a committee to enquire into so much of the criminal laws as related to capital felonies. The speech with which he introduced his motion was praised by Mr. Canning as a combination of luminous arrangement and powerful argument, with chaste and temperate eloquence. It was an admirable statement of facts and reasons; and, therefore, to be justly estimated, must be read as a whole. He was met by ministers with the previous question: his motion was carried by a majority of 147 to 128, and the House rang with cheers.

It is observable that Sir James Mackintosh, since his entrance into Parliament, confined his speeches almost wholly to questions of foreign policy, and to subjects of domestic legislation, in which party had little share. His name does not appear in the strife of party and debate upon those measures of the government and motions of the opposition which grew out of public distress, discontent, popular excesses, and criminal organisations, among large masses of the labouring people. The passing of the Foreign Enlistment Act, out of complaisance to Ferdinand VII., King of Spain, or rather to the spirit of despotic power in the Holy Alliance, remains a signal proof of the parliamentary strength and inherent meanness of the administration of that day. It was opposed by Sir James Mackintosh, in a speech of surpassing eloquence and effect, of which, unhappily, there are but very imperfect remains. The close of the passage in his speech, of which the following version in the Parliamentary Debates is but an imperfect outline, was received by the House of Commons with acclamation:—

“What would the scrupulous politicians of the present times say, when he mentioned the name of one of the greatest princes and most valiant leaders that Europe had ever beheld,—a man whose sword had vindicated the cause of civil and religious liberty against the combined efforts of tyrannical power,—what, he asked, would they say when he referred them to the instance of Gustavus Adolphus, who had in his pay, not a small proportion of British troops, not a little smuggled army, headed by a few half-pay officers, on board a transport or two in the Downs, but a band of 6000 men, raised in Scotland; and by whose co-operation with a handful of other troops he was enabled to traverse a great part of Europe, to vanquish the host that opposed him, and to burst the galling fetters of Germany? And who was the chief by whom those 6000 British troops were led? Not an adventurer,—not a Sir Gregor M’Gregor, of whom he knew little, and for whom he certainly cared less,—but the Marquis of Hamilton; a man of the first distinction and consequence in his own country—the personal friend of the king—from whom, however, he had no licence. At that time the Spanish and Imperial ambassadors were resident in London; but neither of them presumed to remonstrate, or to make a demand like that which had been made in the present day. It was expressly laid down by Vattel, that a nation did not commit a breach of neutrality by allowing its subjects to enter into the service of one belligerent, and refusing the same permission with respect to another. There was one case more, which occurred in the reign of James I., to which he could not help adverting. At that period a great body of English troops, commanded by one of the most gallant captains of his day, Sir Horace Vere, served against the Spaniards, and received pay from a foreign power. Yet Gondomar, the Spanish ambassador, whom King James was endeavouring by the most servile and abject submission to conciliate—who might be almost termed the viceroy of Spain in this country—who had sufficient influence to cause the murder of that most distinguished individual, the ornament of his native country and of Europe, who

united in himself more kinds of glory than had perhaps ever been combined in an individual—that intrepid soldier, that skilful mariner, that historian, that poet, that philosopher, that statesman—Sir Walter Raleigh;—Gondomar, whose power protected him from the punishment he deserved for such an act, dared not go so far as to require the boon which his Majesty's ministers now called on the House of Commons of England to have the condescension to grant! The present was not a more important question as it affected the ruined commerce of a great country, than as it established a most dangerous precedent. With what authority would the envoys of despotic powers henceforward besiege the doors of a British minister with the most disgraceful claims! With what unanswerable force would they say, 'You granted this with facility to Spain, and you granted it when Spain was under the dominion of Ferdinand VII.: on what ground can you withhold it from us?' Dangerous and degrading would it indeed be, if Ferdinand VII. could prevail on an assembly of British gentlemen to establish a precedent which would subject the British government to be dictated to in future times by persons—if any such there could possibly be—resembling him in character. What they had refused to the greatest of modern military tyrants and despotic sovereigns—what they had denied to Louis XIV. and Philip II.—they were required to give to such a man as Ferdinand VII.! The reigning sovereign of Spain, whose character he would not trust himself to describe, had achieved an object in which all his predecessors had failed. He had made those bend to him—

'Quos nec Tydides nec Larissæus Achilles.'"

Mr. Grattan died in 1820. The mover of a new writ for Dublin to supply his place would be expected to pronounce an eulogy upon his character. Sir John Newport declined the motion, as requiring a species of eloquence inconsistent with his ambition and style. The task was imposed upon Sir James Mackintosh. Whether from the want of preparation, of which there is some evidence, or because the success of such performances depends upon graceful turns of phrase, touching allusions, happy inspirations, and a familiar knowledge of the deceased, the eulogy of Sir James is a failure. His prelude on funeral orations in general is longer than his eulogy of the subject of his own. Panegyric on the dead was, he observed, not consistent with the character, habits, and simplicity of Englishmen. It was a practice more suited to a land of slaves than to a land of freemen. He here meant evidently to contrast the English with the French—not, perhaps, in his best taste—and proscribed the funeral eulogies of the French pulpit and French academy. The academy may be given up to him; it has produced little else than ingenious pieces of rhetoric and adulation. But it should be remembered that the French pulpit produced the funeral panegyrics of Bossuet, Flechier, Bourdaloue, and Massillon. Slavery no more inspired the

eloquence of those immortal orations, than it inspired the funeral character of the Duke of Bedford by Fox, or that of Franklin by Mirabeau. There is not, perhaps, a finer or a more fitting theme for sacred or civic eloquence than the bier. If it could be cultivated by slaves, how much more nobly might it be exercised by the free? It is, doubtless, little to be abused and vulgarised; but this is the lot of every talent and every art. Sir James having shown that panegyrics of the dead are forbidden by the character of the English people; that, however, on certain rare occasions, the House of Commons might depart from the rule; and that the late member for Dublin came within the range of exceptive cases; gives the following sketch of Grattan in his public and private life:—

“ Mr. Grattan had been particularly distinguished in the course of his parliamentary career. He was the first (so far as he was informed), and certainly he was the only, individual of our age to whom Parliament had voted a recompence for services rendered to the country by one who was no more than a private gentleman, and who had neither civil nor military honours. Mr. Grattan was the only man to whom a parliamentary grant, under such honourable circumstances, had ever been made. It was near forty years since the Irish parliament voted an estate to Mr. Grattan and his family for his public services; not, indeed, as a recompence, because it was wholly impossible to recompence such services, but, as the vote itself expressed it, ‘ as a testimony of the national gratitude for great national services.’ These were the words of the grant. He need not remind the House what those services were, or what were the peculiar terms on which they were acknowledged; the only thing necessary to be said was this,—that he was the founder of the liberties of his country. Mr. Grattan found that country a dependent province upon England, and he made her a friend and an equal: he gave to her native liberties, and he gave a name among the nations of the earth to a brave and generous people. So far as he (Sir James Mackintosh) knew, this was the only man recorded in history, whose happiness and glory it was to have liberated his country from the domination of a foreign power, not by arms and blood, but by his wisdom and eloquence. It was Mr. Grattan’s peculiar felicity, that he enjoyed as much consideration in that country whose power over his own he had done his utmost to decrease, as he enjoyed in that for which he had achieved that important liberation. But there were still more peculiar features in the general character and respect which he was so fortunate as to maintain in both kingdoms. It must be admitted that no great political services could be rendered to mankind without incurring a variety of opinions, and of honourable political enmities. It was, then, to be considered as the peculiar felicity of the man whose loss they deplored, that he survived them for a period of forty years; he survived till the mild, mellowing hand of time, and the private virtues of advanced age, in him so particularly conspicuous, had produced so general an impression, that that House, divided as it was on other subjects, all united to do honour to his talents and merits; and, followed by their admiration to the end of his career, he doubted not that the tribute which he called on the House to render to his memory would be deep, sincere, and unanimous. He had said that such honours should only be bestowed in cases where posterity

would be sure to approve the decision. Grattan, he was certain every one must feel, would be a great name in our annals. His life would fill a most important space upon the page of history; for it would be connected with the greatest events of the last century. Fertile as the British empire had been in great men during our days (as fertile as it had been in any former period of our history), Ireland had undoubtedly contributed her full share of them. But none of these—none of her mighty names, not even those of Burke, and Sheridan, and Wellington—were more certain of honourable fame, or would descend with more glory to future ages, than that of Grattan.”

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“If he might be permitted to mention the circumstance, he would observe that there was one strong peculiarity in Mr. Grattan’s parliamentary history, which was, perhaps, not true of any other man who ever sat in that House. He was the sole person, in the history of modern oratory, of whom it could be said that he had arrived at the first class of eloquence in two parliaments, differing from each other in their opinions, tastes, habits, and prejudices, as much, possibly, as any two assemblies of two different nations. Confessedly the first orator of his own country (of which he would say that wit and humour sprang up there more spontaneously than in any other soil), he had come over to this country at a time when the taste of that House had been rendered justly severe by its daily habit of hearing speakers such as the world had rarely before witnessed. He had, therefore, to encounter great names on the one hand, and unwarrantable expectations on the other. These were his difficulties, and he overcame them all. He had outstripped the affectionate expectations of his friends; and he had made those bend to his superior genius, who had, perhaps, formed a very different estimate of his powers.”

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“This great man died in the attempt to discharge his parliamentary duties. He did not, indeed, die in that House, but he died in his progress to it, to continue his efforts in that cause of which he had so long been the eloquent advocate. He expired in the public service, sacrificing his life with the same willingness and cheerfulness with which he had ever devoted his exertions to the same cause.

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“The purity of his private life was equal to the brightness of his public glory. He was one of the few private men whose private virtues were followed by public fame; he was one of the few public men whose private virtues were to be cited as examples to those who would follow his public steps. He was as eminent in his observance of all the duties of private life as he was heroic in the discharge of his public ones. He (Sir J. Mackintosh) had not the honour to know Mr. Grattan until late in life. Among those men of genius whom he (Sir J. Mackintosh) had had the happiness of knowing, he had always found a certain degree of simplicity accompanying the possession of that splendid endowment. But, among all the men of genius he had known, he had never, in advanced age, met with a man in whom native grandeur of mind, with vast stores of knowledge at his command, was so happily blended with rational playfulness and infantile simplicity—such native grandeur of soul accompanying all the wisdom of age, and all the simplicity of genius—as in Mr. Grattan. He had never known any one in whom the softer qualities of the soul combined so happily with the mightier powers of the intellect. In short, if he were to describe his character briefly, he should say, with the ancient historian, that he was ‘*vitâ innocentissimus; ingenio florentissimus; proposito sanctissimus.*’ As it had been the object of his life, so it was his dying prayer, that all classes of men might be united by the ties of amity and peace.

The last words which he uttered were, in fact, a prayer that the interests of the two kingdoms of Great Britain and Ireland might be for ever united in the bonds of affection; that they might both cling to their ancient and free constitution; and (as most conducive to effect both these objects) that legislature might at length see the wisdom and propriety of adopting a measure which should efface the last stain of religious intolerance from our institutions. He trusted that he should not be thought too fanciful, if he expressed his hope that the honours paid to Mr. Grattan's memory in this country might have some tendency to promote the great objects of his life, by showing to Ireland how much we valued services rendered to her, even at the expense of our own prejudices and pride. The man who had so served her must ever be the object of the reverential gratitude and pious recollections of every Irishman. When the illustrious dead were gathered into one common tomb, all national distinctions faded away, and they seemed to be connected with us by a closer union than laws or governments could produce. It was natural to dwell on their merits, and on their probable reward; and he felt that he could not better close what he had to say on this subject, than by applying to Mr. Grattan the lines written on one who had successfully laboured to refine our taste and our manners, but who had nothing in common with Mr. Grattan but a splendid imagination and a spotless life. Of Mr. Grattan, when he should be carried to that spot where slept the ashes of kindred greatness, might truly be said,—

‘Ne’er to those Chambers where the mighty rest,
Since their foundation came a nobler guest;
Nor e’er was to the bowers of bliss convey’d
A purer spirit, or more welcome shade.’”

The year 1820 was signalised by the momentary success of the attempts in Spain and Italy to deliver those great European peninsulas from slavery. It is unnecessary to do more than recall to the memory of the reader the events of that period, and the part played by the British ministry of that day in its relations with the Holy Alliance. Several motions relating to the state of Europe, and the specific wrongs of particular nations, were made by the Opposition in both Houses. The case of Naples excited a strong interest. It was submitted to the House of Commons, by Sir James Mackintosh, on the 21st of February, 1821. His speech, evidently revised by him for the press, remains a valuable monument of his talents, and of the eloquence of Parliament. Sir James never forgot the manœuvre by which Lord Castlereagh impeded his success, and humiliated his pride, at the commencement of his career in the House of Commons. He lost no occasion in private of decrying the capacity, and ridiculing the oratory, of that minister. It was not, however, till after a considerable lapse of time that he ventured to engage Lord Castlereagh in open combat. This speech contains one of his most vigorous sallies against an antagonist, who, from the union of creeping and languid declamation

with a certain eluding suppleness of vocabulary, and a temperament of soul which could neither be daunted nor inflamed, and might easily be provoked, was at once feeble and dangerous in debate.

“ And now he must take the liberty of bespeaking particularly the attention of the House to this part of the impeachment against Prince Metternich, which was so ably conducted by the noble Lord. The case stood thus :—Prince Metternich, and the other ministers of the allied powers, had proposed to the government of Great Britain a system of measures which would enable the present or any future administration to invite into this country an army, for instance, of 100,000 Russians or Austrians. It was in effect a proposition for encamping a whole horde of Cossacks or Croats in Hyde Park, and for protecting the free and unbiassed deliberations of that House by an army of Germans and Russians. He begged permission to offer some observations upon this matter. A measure, for the first time since the reign of Charles II., had been proposed to his Majesty’s government by foreign courts, the object of which was no less than for this government to enter into a solemn agreement to receive mercenary armies from the Continent to dictate laws to the people of England. In case of civil danger, or that which a bad minister might be pleased to call civil danger, such a proposition might possibly be entertained ; but those foreign courts had the audacity to propose to ministers that they should admit into the kingdom foreign troops without limit or restriction. When he said that such a case had not occurred since the reign of Charles II., he should have added that the present proceeding was, in one respect at least, infinitely more audacious ; for the mysterious communication which subsisted between Charles and Louis was involved, as such transactions should be, in darkness and obscurity. But, in the present instance, this scandalous proposition was published in the face of all Europe, and intimation of it had been given to every minister in every court. In the face of Europe, Great Britain was required to receive foreign armies to compose our domestic quarrels, and to preserve the national tranquillity. Now, he should be ashamed of himself, and of those whom he had the honour of addressing—he should blush for his country and her Parliament—if he could imagine that there was a single Englishman among them whose blood did not boil with resentment at the bare suggestion of a foreign power interposing in our domestic government, or a foreign bayonet interfering in our private quarrels. From the highest visionary or enthusiast in the country on the side of liberty, to the lowest and most humble labourer it contained, such a proposal would meet with indignant rejection.

“ He would pray the House to observe the manner in which this proposal of these great military powers was put forward. Not content with laying down in theory a principle which they described as applicable in practice to all states, they dared to propose it to England. Upon the whole it appeared, then, that they had required the suppression of that which had been framed and instituted upon the greatest authority ; that their proposal went to annihilate a sacred law, which had existed for ages in this country—a corner stone of that venerable constitution around which so many trophies and memorials of its greatness and its policy had been reared in the lapse of centuries. This was the demand of those who had waged war upon the liberties of states, and had violated the rights of man. If this were so, as he had stated it, the most serious part of the matter before the House remained untold. These sovereigns, or their ministers, told us, in their circular, that they had no doubt of the assent of the British government to the principles

which it contained ; that is, to a system of measures which would reduce Great Britain to the state of a province—a miserable and infamous dependency on the despots of the Continent. This was the plain inference. After so many of these demonstrations and declarations, and ‘*abouchemens des rois*,’ all made in the true spirit of that Holy Alliance which fostered these just, and virtuous, and equitable maxims, the result was, that those courts gave us to understand that Great Britain must consent to a principle that should justify the landing of 100,000 Croats and Cossacks at Dover. Those courts would, surely, be very much aggrieved and irritated at the sudden desertion of the noble Lord : they would now treat him—nay, they had already begun to denounce him—as one of the hostile party. It was always to be remarked, that when gentlemen of a certain calling and description got much together, and embarked on such enterprises as were generally undertaken by persons in their profession, some quarrel arose between them, which ended in very unfortunate discoveries. These were attended with unpleasant consequences ; and the seceders, and those before whom the parties had to appear, were equally objects of resentment and disgust to those who still remained the faithful companions of former adventures ; and this recalled to his mind a very sensible observation made by the biographer of Jonathan Wild, of honourable memory. He said that, in the time of Charles I., there were certain cavaliers and good fellows, who kept the field a little longer than their brethren, and who, from their extreme gallantry and fondness of action, not feeling themselves bound by the truces and compacts which sent their companions quietly to their homes, were at last secured, and infamously left for death by the arbitrary sentence of twelve men of the opposite faction. Now, in the case before the House, they had not only an impeachment of Prince Metternich and Baron Hardenberg from the noble Lord, but a counter-impeachment of the noble Lord by those two very prime ministers. This, then, was his (Sir J. Mackintosh’s) first ground ; and, as it was necessary, in the case of absentees, to manifest a more than usual impartiality, it was requisite that he should now say something on behalf of Baron Hardenberg and Prince Metternich. Not only could he produce those two witnesses at the bar of the House, but he could produce against the noble Lord a third person—a Russian minister. Count Capo d’Istria said that the noble Lord had induced them all to expect the assent of the British government to their proposition. This expectation they entertained, either from the consenting silence of the noble Lord, or from that sort of language which diplomatists so well understood. They maintained that, up to the 19th of January last, the noble Lord had dissembled with them—had kept them in ignorance of this unlooked-for issue—and had not only taught them that he would put into their hands the rights of Europe and the liberties of mankind, but, further, that he would receive into the county of Middlesex whole armies of Russians and Croats. Now, the noble Lord, whose peculiar character it was to remain calm and undisturbed through every discussion, however it might personally or politically relate to him, would not induce him (Sir J. M.) to suppose that he felt uninterested at that moment ; for he rather thought that that silence was the result of agitation on the part of the noble Lord ; which agitation had, perhaps, led him to suppose that this was his (Sir J. M.’s) language. But it was not : it was the language of his colleagues (for he would not call them his accomplices)—the language of Prince Metternich and Baron Hardenberg. Here was a document (the foreign circular), in which the world was told that the noble Lord’s language to them had led them to expect a different kind of support from him ; and really, if that was the fact, they had, as regarded themselves, reason to complain. But how stood the noble Lord upon his own showing ? ‘*Habemus confitentem reum* ;’ and, more than all this, they had seen that another noble Lord, being himself to

attempt an explanation of the conduct of government, had stated most candidly and eloquently all the facts—all the heinousness of this detestable proceeding on the part of the allied powers. It was not, however, the introduction of Cossacks and Croats into England which was commented on by the noble Lord opposite in his circular, but the indictment of Prince Metternich. The noble Lord declared the Prince's proposals to be contrary to the fundamental laws of this realm. What laws? What, but the Bill of Rights, which our ancestors had providently enacted into a law, and which, thank God, down to our day, had been effectual in restraining the illegal exertion of ministerial power."

The mitigation of the criminal law, since the death of Sir Samuel Romilly, seemed to be regarded by others and himself as his peculiar and exclusive subject in the House of Commons. It was an honourable mission, and he proved himself worthy of it. The Committee appointed on his motion in the preceding session made a valuable report; in pursuance of which, he brought in, on the 9th of May, several bills which respectively took away the capital punishment for stealing privately above the value of 40s. in any dwelling-house; 5s. in any shop or warehouse; and stealing, without specification of value, on any navigable river; repealed certain capital enactments become obsolete; converted several capital into simple felonies, and took away the capital punishment in certain forgeries. These bills passed intact through the House of Commons; but the greater part of the old leaven of barbarism and bloodshed was restored in the House of Lords. He attempted again, in the session of 1821, to mitigate the punishment of forgery; but was defeated, on the third reading of his bill in the House of Commons, by a manœuvre of Lord Londonderry.

Opposed and harassed, but not discouraged, and yielding for the moment to passions and prejudices which no force of reason could immediately overcome, he merely proposed, in the session of 1822, a resolution, pledging the House to consider the means of increasing the efficiency, by abating the undue rigour, of the criminal laws, early in the following session. His speech was distinguished by sound views, and the truest eloquence. He spoke as follows of those pedantic and indiscriminate praises which are lavished by mere lawyers upon the law:—

"As to the panegyrics which lawyers by profession were eternally pronouncing upon the laws of the country, while they were indiscriminating, he (Sir J. M.) thought they were wrong. Upon portions of their commendation he agreed with them altogether; but indiscriminate praise carried back his mind to the words of that poet through whose prose writings even the spirit of 'Paradise Lost' often

beamed in all its vigour; such commendation made him think of the words of that poet,—the first defender, let it be remembered, in Europe, of a free press and an unfettered conscience: that bard, in his address to the Lords and Commons of the land, spoke in these terms:—‘Those who freely magnify what has been well done, and fear not to declare as freely what might be done better, give the truest covenant for their fidelity. Their highest praise is not flattery, and their plainest advice is a kind of praise.’ And such was the kind of praise which he (Sir J. M.) would apply to the great principles combined in the law of England. To distinguishing praise he offered his full tribute; and of undistinguishing praise, what, he asked, was the value? Such praise was bestowed upon the law as it now stood. Why, yes; and it had been also bestowed before the time of William III., when no man indicted for treason had a right to a notice of trial, to a copy of his indictment, or to a list of the witnesses against him. Such praise had been lavished before the act of the 1st of Queen Anne, when no witnesses could be sworn in favour of a prisoner, and when it was a vain formality, therefore, to give him the right of calling witnesses at all. During all the time that those excellent regulations had existed, the cry against innovators had been no less loud than it was now. He contended, therefore, that the praises of lawyers were to be guardedly received. Mr. Serjeant Hawkins said, in his ‘Pleas of the Crown,’ that ‘those only who have taken a superficial view of the Crown Law charge it with rigour.’ Would the House believe that those words were written while the statutes against witchcraft were still in full force—while witches were burned as regularly as felons were hanged at every assize? But to come further down:—What was the state of the law even within the last thirty or forty years? Had not women been burned alive for petty treason within that time, and prisoners put to the torture for refusing to plead? And yet all this while lawyers had not been less loud in their praise of law, courtly writers less warm in its commendations, or enemies to innovation less numerous and determined!”

His motion was opposed by the ministers and law officers, but was carried, amidst loud cheers, by a majority of sixteen. On the 21st of May, in the following session (1823), he accordingly submitted a series of resolutions for the mitigation of the criminal law, and called upon the House of Commons to fulfil its pledge. His speech was a detailed and temperate exposition of the nine resolutions which he submitted; that is, of the existing statutes which he proposed to alter or repeal, the extent of his mitigations, and the reasons by which he was guided. The length of the following extract requires no excuse:—

“The first public discussion,” he said, “at which he had been present after his return from India, was in another place, upon a measure of his late lamented friend, Sir Samuel Romilly, tending to ameliorate the existing state of our criminal laws. In the course of that discussion, he had heard it stated, in an excellent speech made in favour of the principle for which he was now prepared to contend, that if a foreigner were to form his estimate of the people of England from a consideration of their penal code, he would undoubtedly conclude that they were a nation of barbarians. This expression, though strong, was unquestionably true; for what other

opinion could a humane foreigner form of us, when he found that in our criminal law there were two hundred offences against which the punishment of death was denounced, upon twenty of which only that punishment was ever inflicted; that we were savage in our threats, and yet were feeble in our execution of punishments; that we cherished a system, which in theory was odious, but which was impotent in practice, from its excessive severity; that in cases of high treason, we involved innocent children in all the consequences of their fathers' guilt; that in cases of corruption of blood we were even still more cruel, punishing the offspring when we could not reach the parent; and that, on some occasions, we even proceeded to wreak our vengeance upon the bodies of the dead? If the same persons were told that we were the same nation which had been the first to give full publicity to every part of our judicial system; that we were the same nation which had established the trial by jury, which, blameable as it might be in theory, was so invaluable in practice; that we were the same nation which had found out the greatest security which had ever been devised for individual liberty, the writ of *habeas corpus* as settled by the act of Charles II.; that we were the same nation which had discovered the full blessings of a representative government, and which had endeavoured to diffuse them throughout every part of our free empire; he would wonder at the strange anomalies of human nature, which could unite things that were in themselves so totally incompatible. If the same foreigner were, in addition to this, told that the abuses which struck so forcibly on his attention were abuses of the olden time, which were rather overlooked than tolerated, he might, perhaps, relent in his judgment, and confer upon us a milder denomination than that of barbarians; but if, on the contrary, he were told that influence and authority, learning and ingenuity, had combined to resist all reformation of these abuses as dangerous innovations; if he were informed that individuals who, from their rank and talents, enjoyed, not an artificial, but a real superiority, rose to vindicate the worst of these abuses,—even the outrages on the dead,—and to contend for them as bulwarks of the constitution and landmarks of legislation;—he would revert to his first sentiments regarding us; though he might, perhaps, condemn the barbarism of the present, instead of the barbarism of the past, generation.

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“In 1822, he had been told that the abstract proposition which he then brought forward was calculated to paralyse the laws, and to suspend their operation. Now, nothing of that kind had occurred. Indeed, year after year had such a prediction been made, and year after year had it been falsified. Whenever the question was brought forward, this selfsame objection was made to it; and the interval that elapsed between the time of discussing it always showed that there was not the slightest weight in it. Standing, therefore, upon the decisions to which the House had so repeatedly come of late years, he would contend, that if ever there was a case in which it was bound to preserve its own consistency, it was that on which he was at present speaking. They had before admitted that there was undue rigour in the present state of the law, and that the best mode of relief was by abating it. What was it that he now felt called upon to propose to them? He would answer the question as shortly as possible. Adhering to the principles he had formerly laid down, he felt himself called upon to submit to the House, first of all, a proposition which would embrace a recognition of the propriety of all the particular measures which the House had formerly thought it right to adopt; and, secondly, a proposition which would carry it somewhat further, and in which he should embody such small additions of detail as would lead those who blamed him, to blame him for lukewarmness rather than for rashness—for an error in deficiency rather than for an error in excess. Though the propriety of abating the undue rigour of the

law had in its favour the authority of all the wisest men who had either written or spoken on the subject, there was something startling in the proposition to those who only thought slightly upon it, which would, perhaps, render his illustration of it not unacceptable. There could not be a greater error in criminal legislation, than to suppose that the mischief of the action was to be the sole regulator of the amount of punishment to be attached to it. For a punishment to be wise, nay, even to be just, it must be exemplary. Now, what was necessary to make it exemplary? That it should be of such a nature as to excite fear in the breast of the public. But if it excited any feeling that was capable of conquering fear,—for instance, if it excited abhorrence,—then it was not exemplary, but the reverse. The maximum of punishment depended on the sympathy of mankind; since every thing that went beyond it reflected discredit on the whole system of law, and tended to paralyse its proper operation. What was the cause of the inefficacy of religious persecution? That it inflicted a punishment which was felt to be too severe for the offence which it was intended to check; that it had no support in the sympathies of the public; but, on the contrary, injured and outraged them all. That was the cause that ‘the blood of the martyr always proved the seed of the church.’ People felt that opinions, if correct, ought not to be met by force; and, if incorrect, they would sink into oblivion if force were not employed to put them down. ‘*Opinionum commenta delet dies naturæ judicia confirmat.*’ He thought that the total inefficacy of persecution to check the growth of opinions—a persecution which always made the martyr be considered as a hero, and the law as a code of oppression and tyranny—served also to prove that laws of undue severity could in no instance effectually serve the purposes for which they were enacted. To ensure them full efficacy, they ought to be in accordance, not only with the general feelings of mankind, but with the particular feelings of the age; for, if they were not so supported, they were certain to meet with its contempt and indignation.

“Nothing was, he said, more false than the arguments usually urged in behalf of punishments; namely, that the crimes which rendered them necessary were the result of great deliberation. He thought that the contrary was the fact, and that, in general, offenders were hurried away by the strong passions that were implanted in their nature, and that ‘grew with their growth, and strengthened with their strength.’ The law was then most efficacious, when it served as a school for morals, when it attracted to it the feelings of all good men, and when it called silently but powerfully upon all such to assist in its admiration. Now, he would ask, what was the lesson to be derived from a consideration of the criminal law of England? Why, that the man who cut down a twig, or injured a cherry tree, or stole a sheep, or he would even say forged a note, was as black a criminal as he who murdered his father, or betrayed the interests of his country to a foreign enemy. He acknowledged that this conspiracy of the law of England against the principles of nature was not successful. The feelings of nature in the people of England prevailed over the immoral lessons taught by its penal law. That law would be detestable in its success, and was now contemptible in its failure. He had always thought that there was an under-statement of the argument on the part of those who contended that an alteration in the law was necessary. They had stated that a mitigation of it was principally required by the reluctance of prosecutors and witnesses to come forward to prosecute under the present severe statutes. They had forgotten, however, to state the effect produced on the feelings of the spectators. They had forgotten to state that they rose in arms, not merely against the charge, but against the verdict of the jury and the sentence of the judge. They had forgotten to state that the law was thus made an object of that abhorrence which ought only to be attached to crime; and that, instead of resting for its support on the aid of good

men, it rested on the fear of the gibbet alone. The honourable and learned gentleman then complained that, under the present system of law, proportionate punishments were not assigned to different offences; and contended that heavy punishment, inflicted on crimes of a smaller degree of delinquency, lessened the effect of it when inflicted on crimes of great atrocity. It was curious to reflect that Lord Hale spoke of England—with reference, of course, to the time in which he wrote—as the country of all others in which the laws were most literally executed, and least committed as to their effect *arbitrio judicis*. Now, how matters were changed! From four capital felonies upon our Statute-book, we had come to 200; and, instead of being the country of the world where the laws were most literally carried into effect, and least dependent upon the will of judges, we had become the country of all the world in which they were least literally executed, and in which the life and death of man was the most frequently intrusted to the feeling of an individual. These arrangements had no foundation in the principles of British jurisprudence: they were contradicted by the spirit of *Magna Charta*; they were hostile to the principles of the first writers on the subject of criminal law; they were but the mushroom growth of modern wantonness of legislation. As a test of the antiquity of the existing criminal code, he would take the result of his intended proceedings. He wished to abolish the punishment of death as applied to a great variety of offences; and yet there were only two statutes with which he should meddle, which were older than the Revolution. Then, if these laws had no foundation in antiquity, what foundation had they in wisdom? Why, they had neither any foundation in policy nor in common sense. There had been in the present age an immense multiplication of capital punishments, just at the very time when society was growing more civilised and humane, and wanted old severities of the law repealed rather than new ones enacted. He did not accuse Parliament of cruelty or bad feeling; but he accused them of negligence—culpable negligence. He accused them of having overlooked that deep regard for the life and liberty of man, which, while it gave the strongest effect to occasional inflictions of the law, formed at the same time the best safeguard for the moral feeling of the community.

“To look in another view, for a moment, at the progress of the present system.—The oldest reports of criminal law were the Tables of the Home circuit, begun in the year of the Revolution, which were to be found in the Appendix to the Report of the Criminal Laws Committee. Those Tables began in the year of the Revolution. It appeared that, during the first forty years from that date, more than half the persons capitally convicted upon the home circuit had been executed; during the last forty years, the proportion of executions to convictions, upon the home circuit, had not been more than one in four; and, taken throughout the kingdom, not so much as one in ten. Indeed, as the number of capital convictions went on increasing, the number of executions kept diminishing; for the laws were so obviously barbarous, that it became absolutely necessary, by some expedient or other, to render them nugatory. It was absolutely a fact—deny it who could—that, as the severity of the penal laws increased, the impunity of crime increased along with them. He would not press this general portion of the subject much further, or advert to ancient laws, or to the codes of foreign countries, any more than was necessary to explain something which had fallen from him last session. He should not be suspected of selecting the Hebrew law for the reverence which it paid to liberty and to human life. The felony of the Hebrew code was the shedding of blood: the only theft which that code punished with death was the stealing of men; all other thefts were to be commuted for twofold or for fourfold restitution. He looked upon the Hebrew law, in its aversion to the shedding of blood, as entitled to the highest veneration. He would not pause upon the ancient Roman

law, so remarkably merciful on the same point; but upon that modern law—the law of France—which now prevailed half over the Continent, it was impossible for him not to dwell for a moment. Six crimes, by the French law, were punishable with death—only one of them a theft; and that a burglary of such complicated circumstance as could seldom, if ever, take place. He had tables, from the year 1811, of the number of capital convictions which had taken place in France, and similar documents with respect to this country. In the year 1811, there had been 404 sentences of death in England, and 264 in France; the population of Great Britain twelve millions, and that of France twenty-seven millions. In the year 1820, the sentences of death in England had been 1236, and in France 361 only; so that, in the course of nine years, the amount of capital conviction had trebled itself in England; while, in France, the increase had been something less than one third. He did not attribute this variance entirely, but he certainly did trace it, in a very great degree, to the difference between the French and English criminal codes. He denied that the fact warranted any inference of the superior morality of the French over the English character. With regard to the police, as far as related to the prevention of crime, it had been not at all improved in France during the last nine years; while in England it had been improved considerably. He traced the difference mainly to the ill effect of the English criminal code: he believed, that if France had lived under the same code as England, she would have had as many convictions; and he thought that the example of France authorised him at least to use this argument. If the House would not believe that great good could be done by lessening the catalogue of capital offences, it must, at any rate, admit that no evil was to be apprehended from such a course.

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“ Upon the resolution relating to suicide and high treason, he wished to make a few brief remarks. The punishment inflicted in a case of suicide was rather an act of malignant and brutal folly. It was useless as regarded the dead, and only tortured the living. The honourable member for Ipswich had given notice of a bill regarding the disgusting course pursued in cases of suicide. Three years ago, he (Sir J. M.) had pledged himself upon the point, and had not brought forward the measure only on account of events at that time occurring, and which might mix the question with matters of a political nature. In his resolution, or in any bill to be founded upon it by himself or others, he did not intend to touch the subject of confiscation for high treason. Had he done so, he knew that he should have excited a clamour: he should have been told that he was proposing an innovation upon the constitution—that he was suggesting what was never heard of before; though it was an undeniable fact, of which honourable gentlemen ought to be aware, that, excepting in England, that part of the punishment for high treason had been abolished throughout the civilized world. A century ago it had been repealed in Holland; in Russia, not less than fifty years ago; in France, Spain, the German confederacy, and in the United States of America, it was now, likewise, unknown. Nevertheless, he should not venture to touch it. He, however, should propose to abolish the forfeiture of goods and chattels in cases of suicide. It seemed to him, that if there was a punishment peculiarly unjust, it was this, where in fact the innocent suffered for the guilty. The principal human offence of suicide certainly was the desertion of those for whom we were bound to provide—whom nature and society recommended to our care. What did the law of England do in this case? It stepped in to aggravate the misery, and perhaps to reduce the fatherless to beggary: it wrested from them the bread they were to eat: in short, it deprived them of their last and sole consolation under their affliction. It was to be observed that the forfeiture only applied to personal property—it affected small savings chiefly, for large

fortunes were generally laid out in land; so that it left untouched the possessions of the great. Before he proceeded further, he wished to draw the attention of the House to the indignities offered to the dead in cases of high treason. In the only case since the reformation of the law, the man who inflicted the indignities was obliged to disguise himself, that he might not be exposed to the abhorrence of the spectators. On the occasion to which he alluded, the crowd evinced no symptom of dissatisfaction, until the bloody head was held up to public gaze by a man in a mask. It was the first time the law of England had been carried into effect by an executioner in disguise. This person had been called in as a skilful dissector; but, so great was the disgust at the barbarous operation, that concealment was felt to be necessary. With regard to the outrages committed on the dead in cases of suicide, he had some doubt whether they were warranted by the law of this country. He had looked into all the text books on this point, and he found no mention of it in Hawkins, a very full writer, not only on the law, but on the practice of his time. There was no mention of it in Sir M. Hale, Sir E. Coke, in Stamford, Fitzherbert, or Bracton. They all spoke of the forfeiture, but said not one word as to the mode of interment. There was no authority for the legality of inflicting these outrages, except the unsupported assertion of Blackstone. That learned commentator made, indeed, a confused reference to Hawkins; but Hawkins supported him only in the forfeiture, and was perfectly silent on the subject of interment. But he surrendered the legal question to any gentleman who thought he could gain a petty triumph upon it; for it might, by long custom, have grown into a law, though only the remnant of barbarous institutions. The question was, whether it ought to be continued? First, he would ask in what light he was to consider it? If as a punishment, it was only such to the survivors;—if it were meant as a punishment to the dead, what sort of punishment was that, where there had been no trial? and what sort of trial, where there had been no defence? In the second place the law operated with the greatest inequality. Verdicts of insanity were almost always found in the cases of persons in the higher stations of life: where self-slayers were humble and defenceless, there *felo de se* was usually returned. This might, perhaps, be accounted for without any imputation upon the impartiality of juries. First, because persons in high life had usually better means of establishing the excuse for the criminal act. Secondly, because suicide was rarely the crime of the poorer classes occupied with their daily labours. It was the effect of wounded shame; the result of false pride; and the fear of some imaginary degradation. Thirdly, the very barbarity of the law rendered it impotent; for juries would not consent that the remains of the dead should be thus outraged, if they could find any colour for a verdict of insanity. He would ask any gentleman, whatever were his opinions as to the moral turpitude of suicide, whether it was a crime that ought to be subject to human cognisance. It was an offence, the very essence of which was to remove the party from all human cognisance; and the law of England was, he believed, the only law which attempted to stretch its authority beyond the bounds of humanity, to include an offence of this kind. The Roman law, with regard to this subject, was very remarkable. It inflicted the punishment of confiscation in all cases of suicide, committed to evade confiscation, which would have been the consequence of conviction for other crimes. This was perfectly just: and it was observable that the Roman law, not content with silence on this subject, expressly excepted all other cases of suicide from any punishment. In the best age of Roman jurisprudence, there was a rescript of the Emperor Antoninus in these words,—“*Si quis tædio vitæ, vel impatientia doloris, vitam finiverit, successorem habere rescripsit Divus Antoninus.*” The Roman law on this subject, of which this rescript was confirmatory, might serve to illustrate a beautiful passage of Virgil, which had a

good deal embarrassed the commentators, in which he described that unfortunate class of persons who have terminated their own existence :—

‘ Proxima deinde tenent mœsti loca, qui sibi lethum
Insonles peperêre manû, lucemque perosi
 Projecêre animas. Quam vellent æthere in alto
 Nunc et pauperiem et duros perferre labores !
 Fata obstant, tristisque palus inamabilis undâ
 Alligat, et novies Styx interfusa coercet.’

“ The word *insonles* had so much embarrassed some of the commentators, that they had endeavoured to get rid of the difficulty by proposing the very opposite sense to the ordinary meaning of that word ; but there could be little doubt that that great master of poetic diction, whose delicacy and propriety in the choice and combination of words were unrivalled, had used this expression with reference to the distinction recognised by the Roman law, between criminals who were guilty of suicide, and those who were untainted by any other offence. There was scarcely any thing which tended more to display the finer feelings of the human mind, than the anxiety of heaping honours upon the dead—of attempting to bestow life upon that in which the natural life was gone ; and he knew of nothing which tended so much to keep alive those affectionate and kindly feelings as to pay this respect to the remains of the dead. It was, in fact, one of the safeguards of morality ; and, as such, could not be interfered with, without the most dangerous consequences. He who could treat the remains of humanity with indignity, or could approve of its being so treated, he could regard in no other light than as being guilty of a very close approach to cannibalism. The opposite of this kindly feeling was the crime of cannibalism, which, just in proportion as affection sought to prolong the duration of man, hastened his decay. Alive to this barbarity, which was perpetrated only by man in the lowest and basest form of the savage state, and when his worst passions were roused, were those cannibal inflictions upon that which could not suffer. It was because they were not only at variance with all the kindly feelings of our nature, but because they neither did produce, nor could produce, any beneficial effect, that he said the remains of this practice in the case of treason were remains of barbarism, and, as such, called for immediate reformation. If to conduce to humanity was the use of all criminal law and all punishment—and if this were not its use, he knew not what it could be—then a tenderness for the remains of the dead would have a far more happy effect, than all the unmeaning cruelties which could be inflicted upon them. He should say nothing of the influence which public opinion ought to have in the regulations of the criminal law, and the adjusting and balancing of crimes and punishments. There were some who thought that Parliament should not be in any way swayed by public opinion ; but it seemed to him that on such a question it was of peculiar value. If public opinion condemned the severity of the law, either it would not be executed at all, or not with effect. On such a subject we ought to appeal to the feelings of men, and it would be unjust in us not to do so. For what, he would ask, was the use of criminal laws, what their intention, and what the end and object of punishment, if it were not to preserve alike all the good and kindly feelings of men ? How, again, he would ask, were we to ascertain when the greatest effect was produced, but by an appeal to those feelings ? No law which did not make such an appeal could be wise. And would even the fondest advocate of the present state of our criminal law say that it did contain any such appeal ? When we awarded the punishment of death for crimes of the blackest description, then the feelings of men went along with us.

The parricide, the murderer, the betrayer of his country, might all suffer the highest punishment, and the feelings of men went along with it; but would any man say that these feelings were not insulted and outraged, when the same punishment was awarded for the cutting down of a cherry-tree, the stealing of a sheep, or even the forging of a bank-note? The continuance of the crime showed that the penalty of the law had not the effect which was intended, and the disparity of the cases showed that the law ought to be altered. He had devoted his attention long and carefully to our present code; and the more he had done so, the more was he convinced that it required to be brought more into accordance with the feelings of men. He would fain make the penal law of his country the representative of the public conscience, and would array it with all the lawful authority to be derived from such a consideration. He would make it the fruit of moral sentiment, in order to render it the school of public discipline. He would array the feelings of all good men against the dangerous criminal, and would place him in that moral solitude where all the members of society should be opposed to him, and where he should have nothing to plead for him but that pity which added weight to his punishment, by showing that it was pure from every taint of passion or partiality."

Mr. Peel, then Home Secretary, objected to his reforms as too sweeping; whilst he agreed in their spirit, pledged himself to take up the subject of law reform, and moved the previous question. It was carried. Sir James now abandoned to the minister a field of eloquence, humanity, and public service, in which he made a reputation which will long survive him. Mr. Peel, too, it should be added, took up the subject in a reforming spirit. His mitigations fell short of the views of Mackintosh and Romilly; but he removed barbarities and corrected anomalies with a degree of courage and capacity which it would have been vain to expect from any other minister of his party. This incident, whilst it raises the individual minister, discredits the administration. It would appear that the government made systematic battle against every change, and therefore every improvement; and that its eyes could be opened only by its being overcome.

The periodical renewal of the Alien Act found in Sir James Mackintosh its most constant, and, perhaps, on the whole, its most powerful opponent. His peculiar acquaintance with the history and practice of the public law of Europe armed him at all points for debate on the subject; and the European reputation to which he aspired, called forth the utmost exercise of his faculties and resources. His first decisive opposition to it was in the session of 1816.

"In the discussion of last session, he had called for proofs of the existence of the prerogative said to be in the Crown, of sending out of the realm alien friends in

time of peace. In calling for proofs of a prerogative, he must be understood to require evidence of a long, avowed, and uncontested exercise of it, sanctioned by Parliament, or at least recognised by the Courts of Westminster Hall. Till an answer was made to such a demand, he had suspended his opinion. He only ventured then to doubt the existence of such a right. But from the proofs which had not been produced, and the arguments which had been offered after a twelvemonth's leisure for research, he now thought himself justified in declaring that such a prerogative was not warranted by law."

His speech was that of a jurist rather than of an orator; and, though admired and effective, contains none of those movements of rhetoric or dialectics which could be extracted. He again was among those who opposed the renewal of the law in 1818. His reply to the law officers, on the same subject, in 1820, would have crushed the dispute, if divisions in the House of Commons were not matters rather of individual discretion and state policy than of reasoning.

"It is impossible (said he) to conceive a supreme power, without the power of sending foreigners out of the country; nay further, without the right of banishing its own subjects. Yet my learned friend has made all his parade of jurists to prove that a supreme power must be supreme over foreigners in its dominions. He has selected two passages from Sir William Blackstone, the only passages in which absurdity and falsehood are to be found. He has also referred to Puffendorff—to a German jurist, for English law—to a despotic writer, for the constitutional law of England. This ridiculous authority is all he can add to the passages brought forward, for the twentieth time, from Blackstone, and as often detected and exposed. But it has been said that the Crown has the power of sending a foreigner to his own country. Does my honourable and learned friend say so? Has any power in this country a right to protract its authority, to land the foreigner in a particular place, to throw the unfortunate victim into the jaws of destruction? He has spoken of the great authorities on this subject. His authorities, in part at least, are so rotten a foundation, that the superstructure can be entitled to no great veneration. The proclamations of Elizabeth are now brought forward. These proclamations were dug out of the State Paper Office for the first time in the year 1816, and for this bill. The bill had passed this House, before this authority was thought of. In the other House, the question had been argued with as much learning and eloquence as had ever been displayed on any question; and in the last debate in that House, were the two proclamations brought forward, which ordered out of the country all Scotchmen. The next time that the measure came under the consideration of this House, my learned friend produced this authority, and I gave him at the same time such an answer as occurred to me. Since that time I have found a particular authority on this point—an authority that must be fatal to the argument. The 7th Henry VII. is a statute authorising the Crown to send Scotchmen out of England, and exposing them to the forfeiture of all their goods. This statute allows 40 days after proclamation for leaving the kingdom. The statute of Henry VII., with all other statutes hostile to Scotchmen, was repealed on the accession of James I. to the throne of England; but it was in full force in the reign of Elizabeth. It proves the very contrary of the object for which it was produced by my learned friend. Such a

power as he claims for the Crown was not dreamed of in the most despotic period of our history, or under the most despotic prince of the Tudors."

In 1822 he took the lead in opposition to it. The question of public right was no longer mooted. The subject was one of liberty against despotism throughout Europe.

"The Holy Alliance," said Sir James, "thought it quite legitimate to propose a new code of laws to the nations of Europe—to remodel at pleasure all the long-established international usages, all the rules of right and wrong, proscriptively acknowledged and acquiesced in by independent states. The noble Marquis, in his memorable letter, also said that the principles propounded by the Holy Alliance, in their specific application to England at the time, would destroy the independence of all nations, and the rights of all subjects; and yet, after such a declaration of their views, he called for this bill to enable them the better to execute their detestable purpose. Against which of their own subjects do these despots want protection?—against the unhappy and oppressed people of Italy, the most afflicted specimen now in Europe of relentless cruelty and suffering? These unhappy men were seized by their oppressors, and, as if no prisons in Italy were severe enough for their entombment, they were sent to Hungarian fortresses, sunk in the midst of surrounding marshes, to linger out, amid incidental disease, wretched existence—to die so slowly, that none can call it murder.' He knew the fact of a Roman nobleman, residing within the Ecclesiastical States, who was seized and dragged from that neutral territory by Austrian troops: he was hurried to Venice, there tried by a secret tribunal, and condemned to death by their award. This sentence, by a pretended mercy, was commuted—commuted did he say?—to twenty years' imprisonment in a Venetian dungeon covered with water: the imprisonment was to be solitary: only half an hour a day was to be allowed for exercise, until death, in pity, should come to the rescue of the sufferer! Ask any English gentleman who had lately travelled in Italy, whether he had not seen men of education and talents working in chains on the highways and public works of Lombardy and Piedmont, for alleged political offences. He could name the cases and particularise his sources of information, were it not dangerous to expose the yet unimmolated parties to that system of *espionage* which reigned throughout Europe. He used a foreign word with repugnance in an English speech; but on this occasion he rejoiced that the ancient language of freemen contained no word to express that odious system: its plain and manly structure required not the use of a phrase which the habits of its people scorned to employ. He had promised to show how far the faith of neutrality was recognised by these high contracting powers: he would show it by a reference to their most solemn acts. Let the House refer to the allied treaties signed on the 20th of November, 1815. At that date several acts were executed in Paris, in pursuance of other great treaties which had been framed and adopted in the course of that year; and among them was a remarkable declaration respecting the integrity and neutrality of Switzerland, which was framed and executed by the powers engaged in the previous congress at Vienna. He would quote this declaration, to show the good faith which marked the conduct of these great league-breakers—these shameless violators of their most formal and deliberate pledges. The powers who signed the declaration recognised in the most full and solemn manner the perpetual neutrality of Switzerland, and guaranteed the integrity and inviolability of its territory. This was signed by the ministers of Russia, France, Prussia, England, and subsequently ratified and confirmed by Prince Metternich, on the part

of Austria, in a sentence of barbarous Latin, written in the true style of German chicanery. How had that solemnly acknowledged neutrality been permitted to rest? The cantons of Switzerland had been, by prescriptive usage, the admitted asylum of the persecuted. Those who fled on the revocation of the edict of Nantes were not disturbed on their retreat by the tyrant from whom they fled, and who was at that moment upon the most intoxicating elevation of his power. Not so was the fate of those who sought refuge from the fangs of the Holy Alliance; not so was the forbearance of those who had signed the treaty of the Holy Alliance. Austria — the same Austria for which Prince Metternich had signed the integrity and inviolability of Switzerland — called for the *ex-tradition* (that was the phrase) from Switzerland of some Italians who had sought an asylum there from the persecution of the Austrian authorities. Upon that requisition some of the states of Switzerland behaved with pusillanimity towards these unfortunate refugees. But let justice be done these smaller states. Which more deserved indignation for the act, — the feeble government acted on by fear, and doomed from necessity to consent, or the powerful state who compelled obedience by the threat of overawing force? Amid this compulsory yielding to power, the canton of Geneva set an honourable exception: they rejected this demand to sacrifice their honour. What was the consequence? Three Austrian commissaries returned to Geneva, and informed the magistracy that, if they did not expel these Italian refugees at a moment's notice, they must prepare to incur the responsibility of refusing the demand of Austria, and risk the consequences. This was the threat of war from the great power bound to respect the smaller. Was not this a daring infraction of the sacred faith of treaties? Where, then, was the remonstrance of Great Britain, a party to this treaty? What did her minister, who now called for this Alien Bill, say to the Austrian maker and breaker of guarantees? Where was the indication of dissent from so faithless an infraction of a treaty binding upon all? Was it to be found in the passing of this Alien Bill, which, in effect, went to pass one undistinguishing censure upon the struggles of the oppressed to shake off the grinding chain of their oppressors, and to record one approving and assenting voice to the acts of the Holy Alliance?"

He again opposed it in 1824. Mr. Canning, having meanwhile become Foreign Secretary on the death of Lord Londonderry, announced it as probable that the bill would not be again renewed; and this proved the last debate upon it.

The merchants of London, in the same year, charged Sir James Mackintosh with their petition to the House of Commons, for the recognition of the independence of the South American States. His speech, which was worthy of the subject and of the trust, was published in a separate form, no doubt by himself, as the case of the petitioners. The following extract will give but an imperfect idea of so comprehensive and elaborate a statement:—

"We require from the new born states of America a condition incompatible with human nature, and which if they are able to fulfil, they would be unlike every other community that ever shook off the yoke of foreign or domestic tyrants. We refuse them the honour of formal admission into the society of independent nations,

unless they shall immediately solve the awful problem of reconciling liberty with order; unless infant government shall, in a moment, shoot up into manhood; unless all the efforts incident to a fearful struggle shall at once subside into the most perfect and undisturbed tranquillity. We expect that every interest which great changes have wounded shall yield without resistance, and that every visionary or ambitious hope which they have kindled shall submit without a murmur to the council of wisdom and the authority of the laws. Who are we who exact the performance of such hard conditions? Are we, the English nation, to look thus coldly on rising liberty? We have indulgence enough for tyrants; we make ample allowance for the difficulties of their situation; we are ready enough to deprecate the censure of their worst acts. And are we, who spent ages of blood in struggling for freedom, to treat with such severity the nations who now follow our example? Are we to refuse that indulgence to the errors and faults of other nations, which was so long needed by our own ancestors? The English people waded through despotism and anarchy, through civil war and revolution, on their road to freedom. They passed through every form of civil and religious tyranny: they persecuted Protestants under Mary; I blush to add, they persecuted Catholics under Elizabeth. It was said by the great satirist, in those nervous invectives which he poured out against them for their love of liberty, that they were a people whom—

‘No king could govern, and no god could please.’

“Within a few years after these invectives, this abused people established the first system of civil and religious liberty which had ever been attempted in a great empire. We justly revere our forefathers for having accounted all the evils through which they passed as nothing in comparison with the high object which they pursued. We never think of these evils further than as they endeared to us the liberty of which they were the price. And shall we now, inconsistently, unreasonably, basely, hold, that distractions so much fewer, and milder, and shorter, endured in the same glorious cause, will unfit other nations for its attainment, and preclude them from the enjoyment of that rank and those privileges which we at the same moment recognise as belonging to slaves and barbarians?

“I call upon my right honourable friend distinctly to tell us, on what principle he considers the perfect enjoyment of internal quiet as a condition necessary for the acknowledgment by foreign states of an independence which cannot be denied to exist? I can discover none, unless the confusions of a country were such as to endanger the personal safety of a foreign minister. In such a case, indeed, there would be a sufficient reason for interrupting diplomatic intercourse till it could be safely carried on. Yet the European powers have always had ministers at Constantinople, though it was well known that the barbarians who ruled there would, on the approach of a quarrel, send these unfortunate gentlemen to a prison in which they might remain during a long war. Short of this extreme case, I see no connexion between diplomatic intercourse and the internal state of a country. As long as foreign ministers are secure, no confusion can be such as to require the interruption or to prevent the establishment of intercourse through them. But, if there were any such insecurity in the new states, how do the ministers of the United States of North America reside in their capitals? or why do we trust our own consuls and commissioners among them? Is there any physical peculiarity in a consul, which renders him invulnerable where an ambassador or an envoy would be in danger? Is a consul bullet-proof or bayonet-proof, or do consuls wear coats of mail which secure them from violence? The appointment of consuls implies our belief that there are governments existing in Spanish America who are actually

independent, and to whom our consuls may apply, in cases of mercantile grievance, with the same reasonable prospect of success as in other countries. It rests on the foundation that these governments are obeyed by their subjects, and have the power and the will to compel them to do justice to foreigners. What more do we require for ministers of a higher character? The same government which redresses an individual grievance on the application of a consul, may remove a cause of national difference after listening to the remonstrance of an envoy. Whatever may be the succession of factions, however these states may be agitated by divisions, whatever form their governments may assume, they must be as competent, and as much disposed to negotiate on high national interests, as to do justice to an aggrieved trader or mariner: they must, in the one case as in the other, all be equally inclined to continue on terms of amity and friendly intercourse with the greatest maritime power of the world.

"I will venture even to contend, that internal distractions, instead of being an impediment to diplomatic intercourse, are rather an additional reason for it. An ambassador is more necessary in a disturbed than in a tranquil country, inasmuch as the evils against which his presence is intended to guard are more likely to occur in the former than in the latter. It is in the midst of civil commotions that the foreign trader is the most likely to be wronged; and it is then that he [therefore requires, not only the good offices of a consul, but the weightier interposition of a higher minister. In a perfectly well-ordered country, the laws and the tribunals might be sufficient. It is in a state where their operation is disturbed, that he cannot be safe without aid from the representative of his native country. In the same manner, it is obvious that, if an ambassador be an important security for the preservation and good understanding between the best regulated governments, his presence must be far more requisite to prevent the angry passions of exasperated factions from breaking out into war. Whether, therefore, we consider the individual or the public interests which are secured by embassies, it seems no paradox to maintain that, if they could be dispensed with at all, it would rather be in quiet than in disturbed districts.

"The interests here at stake may be said to be rather individual than national. But a wrong done to the humblest British subject, an insult offered to the British flag flying on the slightest skiff, is, if unrepaired, a dishonour to the British nation. It is a great national interest, as well as duty, to watch over the international rights of every Briton, and to claim them from every government. It is only when states treat the wrongs of their subjects as public injuries, that every individual learns to feel the violation of his country's rights as a private wrong.

"But the mass of private interest engaged in our trade with Spanish America is so great as to render it a large part of the national interest. There are already at least a hundred English houses of trade established in various parts of that immense country. A great body of skilful miners have lately left this country to restore and increase the working of the mines of Mexico. Botanists, and geologists, and zoologists, are preparing to explore regions too vast to be exhausted by the Condamines and Humboldts. These missionaries of civilization, who are about to spread European, and especially English, opinions and habits, and to teach industry and the arts, with their natural consequences of love of order and desire of quiet, are at the same time opening new markets for the produce of British labour, and new sources of improvement, as well as enjoyment, to the people of America."

There are several other speeches fully reported, and of conspicuous ability. His name and talents will be found associated

with almost every great question and generous cause. Supporting the motion for a committee on the Catholic claims in 1822, he described as follows the origin of the act of the 30th of Charles II., upon which great stress had been laid by Mr. Peel:—

“The right honourable gentleman had laid great stress upon the danger which, in his opinion, must arise from the repeal of the statute of the 30th of Charles II., and had loudly declared, that to repeal that law would be to alter the whole frame of the British constitution. When the right honourable gentleman attached so much constitutional importance to the act of Charles II., it was right to refer back to its origin, and to the circumstances which called it forth. Now, with reference to the history of that act, he would say, that no law which had ever been promulgated sprung from a more infamous origin; that no law ever flowed from so foul and impure a source; that never had a law been passed under circumstances of so detestable and infamous a nature, as those which attended the enactment of that statute, which the right hon. gentleman seemed to revere as if it were the great charter of the constitution. He had taken pains to refer to the Journals for the history of this statute. It had been passed on the 28th of October, 1678; and it was curious to see how the House had been occupied just before it adopted that act—to see in what manner it had prepared itself for grave deliberation—with what equanimity and temper it commenced the work of legislating for the exclusion of a great portion of the subjects of this kingdom. Would the House believe that, during the whole of the day preceding the enactment of this bill, the House had been busily occupied in the examination of Titus Oates? It was after this preparation that the bill so praised had passed; when the minds of members were intoxicated with the flagitious perjury of that detestable and atrocious miscreant, whose shocking crimes had not only brought disgrace upon the country which he had duped, but had sacrificed the lives of so many innocent and deserving characters. In that manner had the bill been passed; and it furnished a melancholy instance of the facility with which the legislature was brought to enact severe laws, and the difficulty always manifested to have them revoked, even when their injustice was apparent. Here was an instance in which one abandoned and remorseless miscreant—an outcast from the human race—was able to inflame that House—to delude it at a moment when it contained the greatest patriots and the wisest men, some of whom shed their blood, and others had lived, for the deliverance of their country at the Revolution. Yet this single, foul, and wretched perjurer was able to hurry through a measure of exclusion against millions of his fellow-subjects, which it took twenty years of all the genius and patriotism of England to struggle against in the hope of undoing. Thus twenty years of the labours of such men were unable to undo the falsehoods which it took this wretch a single morning to utter. Who, then, could say that such an act was entitled to the weight which ought only to belong to measures deep and well-digested for the public welfare?”

On the Bill for the suppression of the Irish Catholic Association, in 1825, he said:—

“He did not chiefly rise, on the present occasion, to observe on what had fallen from them,—not from any want of respect, but because much of what they had

said was necessarily, on account of their situation, somewhat more tainted by the acrimony of Irish party, and somewhat more influenced by the anger of Irish factions, than a member for Great Britain could bring his mind to consider as worthy of much importance, when he came to discuss a question of such great interest to the whole empire as that at present under consideration;—but he would not entirely pass over the observations of the last speaker; one of which he considered to be the most important that had fallen from any member of that House during the three nights' discussion which had taken place. He had seized the first opportunity of returning strength, and of hardly re-established health, to perform a great duty, which he felt to be incumbent on him, on a question which had created the deepest interest in his breast. He rose to protest against the new stigma thrown on the Catholic cause, on account of the alleged misconduct of the Catholic body. He rose to protest against the attempt to silence the complaints of the people of Ireland, without redressing their wrongs. He rose to protest against this new discouragement, added to the discouragement of centuries, which had been given to the people of Ireland. He rose to protest against a bill which he thought had been justly characterised as a bill to relieve the government from the necessity of doing justice to Ireland, and to protect the present administration in the continuance of their system of tampering with the miseries of that unfortunate country. It was against a bill possessing, in his eye, all these alarming features, that he rose to enter his feeble, but earnest, conscientious, and solemn protest. The zeal with which he was actuated in behalf of the Catholics was not (as his right honourable friend (Mr. Tierney) had said of himself in that memorable speech exhibiting such an union of sense and wit, which closed the debate on a former night) connected with a love of their principles: he venerated the Reformation, and gloried in the name of Protestant. But his glory in the Reformation was his glory in the principles upon which that great work had proceeded—the right of freedom as to opinion, and security from persecution. These principles it was that formed the basis—the only real basis—of civil and religious liberty; and those who did not uphold them—no matter what their professed tenets—were no true reformers. Protestants they might call themselves; but they mistook their character: they were only Papists in Protestants' clothing; setting up a small popery, a little exclusive one, within the Protestant church, in lieu of that greater system of popery which had once covered all Europe with its shadow. So long as the Catholics had remained, by nature, the natural allies of civil and religious tyranny, so long, if he had then lived, he (Sir J. M.) would have remained their mortal enemy. The same principles, precisely, which were to influence his vote that evening in favour of the Catholics, would have impelled him to draw his sword against them at the battle of the Boyne. The principles of civil and religious liberty established by the glorious Revolution,—revealed first to the world, at the Reformation, by men who neither understood nor sought to practise them; but since appreciated, acted upon, and fought for, by men whose hearts were purer, or their intellects more enlightened;—those principles formed his creed; in them he had lived, and in them he hoped he should die; and in support of those principles it was—never on any occasion pressing upon his mind more strongly—that he now rose before the House in defence of the Catholic cause.”

Supporting again the Catholic claims, and the principle of religious toleration, in 1828, he said:—

“He should not speak further of that wisdom, but would call the attention of the House to the change which had taken place in the sentiments of mankind on

this subject of exclusion on account of religion. Only two hundred and fifty years had elapsed since the reign of that queen who was considered to be the head of the Protestant religion. At that day, every state in Europe punished the professors of that Protestant religion with death whenever they were discovered. Scarcely had two hundred years elapsed since two Arians were, on account of their religious tenets, put to a cruel death in this country; and in the time of Edward VI. the cradle of the Protestant church was covered with blood. These scenes had taken place under the eyes of a man who, in some respects, was very amiable, and for whom, considering the age in which he lived, he was ready to make an ample allowance. A lapse of two hundred and fifty years had since taken place, and they had arrived at a time when every state professed toleration, and almost all of them practised what they professed. They had arrived at a time in which religious liberty, in the sense in which he had described it, when no man was the worse—when no man suffered any exclusion from civil privileges, on account of his religious opinions—generally prevailed. If they looked from the Pyrenees to the Alps, from Archangel to the confines of Kamtschatka, they would find that this feeling was predominant, and was every hour becoming stronger. They would find it prevalent in Russia; they would find it triumphant in all the states which composed the Germanic body. The ruling power in Saxony acted on the principle: the Roman Catholic King of Bavaria governed with an equal hand his Protestant subjects; while the Protestant monarch of Prussia extended the same paternal and protecting hand to his subjects of the Roman Catholic faith. England and Prussia had long been at the head of those powers which considered the protection of religious liberty as the proud badge of civilisation; and they looked on other nations as coarse and uncultivated, when they countenanced a system of exclusion on account of religious opinion. Holland still retained her high situation, under a prince of the house of Nassau, as the protectress of liberal principles. That was, perhaps, the best governed and most prosperous state on the Continent. He rejoiced in the illustrious name of Nassau, which was dear to every friend of freedom; and he only regretted that England, under a prince of the house of Hanover, should have retrograded from her proper place in the van of tolerant and liberal nations, and fallen into the rear. By the late change in Sweden, a Catholic king had been placed on the throne. Whether she still persisted in excluding Roman Catholics from power, he could not tell; but he believed that there were few or none of that persuasion in the Swedish territories. He knew, however, that the system of exclusion did not hold with respect to Denmark; because he had been acquainted with a Roman Catholic gentleman, of Irish descent, though born in one of the Danish West India islands,—he meant the late Mr. Morton,—who had filled the situation of representative of Denmark in this country. He knew another Roman Catholic gentleman, a native of Northumberland, who was a resident at the court of the King of the Netherlands. Where, then, he asked, did the system of exclusion prevail? In the states of the South of Europe, where there were many infidels, but no Protestants? Yes: the system existed in England, and it existed in Spain. It existed in the country of Locke, and also in the country of Loyola; in the dominions of the house of Brunswick, and under the government (if I may dignify it with the title) of Ferdinand VII. It was in this base society that the wisdom of their ancestors was cherished and kept up. There they might see every attempt made to perpetuate a few fragments of that ancient tyranny and intolerance which had created so much misery: which was even now endangering the tranquillity and integrity of the empire; which was breaking the link that joined us to the most precious member of the British state; which was keeping shut that door which effectually precluded the commencement of

improvement, and would continue to do so until it was thrown open; which continued to inflict on the great body of the people of Ireland that unworthy treatment under which they had so long suffered.

“He now came to a subject of a very grave and important nature, and one which he should not have ventured to touch upon in that House, if it had not been argued with so much force and energy by his honourable and learned friend, as one of the obstacles to the concession of the objects of the honourable Baronet’s motion. Under the circumstances in which it had been mentioned, he could not, notwithstanding the delicate nature of the question, avoid making upon it a very few observations. The constitution of this country had wisely exempted the King from the exposure of being present at any of the stormy debates which take place in Parliament, and rendered his person inviolable, and his conduct unimpeachable so long as his advisers continued responsible for his actions done by their advice. This was one of the great expedients by which our ancestors contrived to reconcile the doctrines of a monarchy with the principles of liberty. The advantages of such a provision were numerous to the monarch as well as to the subject; but the misfortune was, that the least invasion or infraction of the law exposed the king of such a country to greater reverses of affairs than the rulers of other countries, apparently less happily situated. The King was the fountain of mercy, the redresser of the wrongs and grievances of his subjects, until a perverse and iniquitous system of law deprived him of his most valuable privilege, and robbed him of the brightest jewel of his crown. The privilege of advising his Majesty rested with his ministers, under the control of the houses of Parliament; but such was the jealousy that Parliament entertained upon this subject, that all attempts to influence its decisions by any statement of the inclination of the King was looked upon as a high misdemeanour. There could, indeed, be no doubt that any attempt to state the opinion of the Crown to that house was against the principles of the constitution; nor was it less doubtful that any individual was guilty of the highest presumption who ventured to influence the decision of the House by any reference to the opinions, or the situation, or the duty of the Crown. He did not mean to say that his Majesty was fettered as some had dared to say that he was fettered. He would not enter into the discussions of the delicate subject of the principle of an oath; but would merely refer on that occasion to what Lord Kenyon had said in his correspondence with his late Majesty in 1791. Lord Kenyon said, ‘It is a general maxim, that the supreme power of a state cannot limit itself.’ Perhaps it would have been more correct to have said, that the supreme power of a state was always the same. For if this were not so, then the supreme power of one and the same state would at one time be less than it was at another. It was a principle of law and justice, that what could not be done directly could not be done indirectly; and, therefore, it was clear, that by no means whatever could the King bind his successor; for, if such a proceeding was tolerated, the course of legislation would be impeded by measures producing endless confusion, and every party who wished to bind the legislature to a perpetual adherence to some private plan would endeavour to have an oath tacked to the bill, in order to secure it against violation, and perpetuate its enactments. Circumstances of state, which never could be foreseen, might suddenly arise; emergencies, beyond the power of calculation, might occur. If the supreme power could bind the successor, the monstrous doctrine must be maintained, that a king might be bound by an oath not to perform a duty which might eventually serve his country. The distinction, in his opinion, was perfectly clear. The King in Parliament exercised the supreme power; and with the authority of that Parliament he might bind himself by oath to abide by such acts as to his conscience and judgment might occur right. The power, however, which

gave might take away; and the same Parliament and Legislature which, in its supreme power, bound the King to one course, might determine upon another. The coronation oath was relied upon; but, besides other satisfactory arguments, which had been adduced to show that this could be no impediment to Catholic concession, he would say, that this was a matter of political reasoning; that it was a question of degree; and that the King, if advised by his counsellors, and supported by the two houses of Parliament, would not resist a measure of concession to the Roman Catholics.

“He would trouble the House only with one word more. If it was to be the fortune of Parliament that night to see the relief which had been recently granted to the Protestant dissenters followed by an equal measure of justice towards the Catholics; if that one wise decision should be followed by another, which should relieve the long-protracted sufferings of Ireland, and open to that unhappy country something like the prospect of a better scene,—something like the commencement of reform,—then he should look upon any discussion of the question of oaths as a work of mere supererogation. In such a case he should ever be disposed to say, with the noble Roman, who held all forms or tests as mean and trivial compared with the common advantage, ‘*Maximum illud pulcherrimumque jusjurandum, se conservasse rempublicam.*’”

His appearances in debate and in the House were, however, now more rare. From the 13th of April, 1825, to the 8th of June, 1827, his name does not appear in the Parliamentary debates; and but once in the list of divisions,—among the minority who voted for the Catholic claims. He, however, supported the chief measures of Mr. Canning, whilst Foreign Secretary, and his government, when he became Premier,—in common with the great majority of the Whigs. Mr. Bankes was one of the few members who opposed Mr. Canning’s memorable expedition to Portugal. He denied the alleged *casus fæderis*, and appealed to Sir James Mackintosh, who was present, for his opinion as a publicist. Sir James pledged his opinion and authority on the side of Mr. Canning. He supported that minister both in and out of Parliament, from public motives and private friendship. Some articles, which attracted notice at different times in two of the public journals, were written by him. He spoke in favour of the grant to the family of Mr. Canning in a tone of mournful regard.

The following character of that lamented statesman by Sir James Mackintosh, under the title of “Sketch of a Fragment of the History of the Nineteenth Century,” appeared in the Keepsake, with the initials of his name. In a notice prefixed to it, he professes an attempt to adopt the temper with which he believes that some events and persons of our time may be considered by a future historian.

“ Without invidious comparison, it may be safely said that, from the circumstances in which he died, his death was more generally interesting among civilised nations than that of any other English statesman had ever been. It was an event in the internal history of every country. From Lima to Athens, every nation struggling for independence or existence, was filled by it with sorrow and dismay. The Miguelites of Portugal, the apostolicals of Spain, the jesuitical faction in France, and the divan of Constantinople, raised a shout of joy at the fall of their dreaded enemy. He was regretted by all who, heated by no personal or party resentment, felt for genius struck down in the act of attempting to heal the revolutionary distemper, and to render future improvements pacific :—on the principle since successfully adopted by more fortunate, though not more deserving, ministers; that of a deep and thorough compromise between the interests and the opinions, the prejudices and the demands, of the supporters of establishment, and the followers of reformation.

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“ The family of Mr. Canning, which for more than a century had filled honourable stations in Ireland, was a younger branch of an ancient family among the English gentry. His father, a man of letters, was disinherited for an imprudent marriage, and the inheritance went to a younger brother, whose son was afterwards created Lord Garvagh. Mr. Canning was educated at Eton and Oxford, according to that exclusively classical system, which, whatever may have been its defects, must be owned, when taken with its constant appendages, to be eminently favourable to the cultivation of sense and taste, as well as to the development of wit and spirit. From his boyhood he was the foremost among very distinguished contemporaries, and continued to be regarded as the best specimen, and the most brilliant representative, of that eminently national education. His youthful eye sparkled with quickness and arch pleasantry, and his countenance early betrayed that jealousy of his own dignity, and sensibility to suspected disregard, which were afterwards softened, but never quite subdued. Neither the habits of a great school, nor those of a popular assembly, were calculated to weaken his love of praise and passion for distinction. But, as he advanced in years, his fine countenance was ennobled by the expression of thought and feeling : he more pursued that lasting praise, which is not to be earned without praiseworthiness; and, if he continued to be a lover of fame, he also passionately loved the glory of his country. Even he who almost alone was entitled to look down on fame as ‘ that last infirmity of noble minds,’ had not forgotten that it was—

‘ The spur that the clear spirit doth raise,
To scorn delights, and live laborious days.’*

The natural bent of character is, perhaps, better ascertained from the undisturbed and unconscious play of the mind in the common intercourse of society, than from its movements under the power of strong interest or warm passions in public life. In social intercourse Mr. Canning was delightful. Happily for the true charm of his conversation, he was too busy otherwise not to treat society as more fitted for relaxation than display. It is but little to say, that he was neither disputations, declamatory, nor sententious; neither a dictator nor a jester. His manner was simple and unobtrusive; his language always quite familiar. If a higher thought stole from his mind, it came in its conversational undress. From this plain ground his pleasantry sprung with the happiest effect; and it was nearly exempt from that

* Lycidas.

alloy of taunt and banter, which he sometimes mixed with more precious materials in public contest. He may be added to the list of those eminent persons who pleased most in their friendly circle. He had the agreeable quality of being more easily pleased in society than might have been expected from the keenness of his discernment, and the sensibility of his temper. He was liable to be discomposed, or even silenced, by the presence of any one whom he did not like. His manner in society betrayed the political vexations or anxieties which preyed on his mind; nor could he conceal that sensitiveness to public attacks which their frequent recurrence wears out in most English politicians. These last foibles may be thought interesting as the remains of natural character, not destroyed by refined society and political affairs. He was assailed by some adversaries so ignoble as to wound him through his filial affection, which preserved its respectful character through the whole course of his advancement. The ardent zeal for his memory, which appeared immediately after his death, attests the warmth of those domestic affections which seldom prevail where they are not mutual. To his touching epitaph on his son, parental love has given a charm which is wanting in his other verses. It was said of him, at one time, that no man had so little popularity and such affectionate friends; and the truth was certainly more sacrificed to point in the former than in the latter member of the contrast. Some of his friendships continued in spite of political differences, which, by rendering intercourse less unconstrained, often undermine friendship; and others were remarkable for a warmth, constancy, and disinterestedness, which, though chiefly honourable to those who were capable of so pure a kindness, yet redound to the credit of him who was the object of it. No man is so beloved who is not himself formed for friendship.

“Notwithstanding his disregard for money, he was not tempted in youth by the example or the kindness of affluent friends much to overstep his little patrimony. He never afterwards sacrificed to parade or personal indulgence; though his occupations scarcely allowed him to think enough of his private affairs. Even from his moderate fortune, his bounty was often liberal to suitors to whom official relief could not be granted. By a sort of generosity still harder for him to practise, he endeavoured, in cases where the suffering was great, though the suit could not be granted, to satisfy the feelings of the suitor by full explanation in writing of the causes which rendered compliance impracticable. Wherever he took an interest, he showed it as much by delicacy to the feelings of those whom he served or relieved, as by substantial consideration for their claims—a rare and most praiseworthy merit among men in power.

“In proportion as the opinion of a people acquires influence over public affairs, the faculty of persuading men to support or oppose political measures acquires importance. The peculiar nature of parliamentary debate contributes to render eminence in that province not so imperfect a test of political ability as it might appear to be. Recited speeches can seldom show more than powers of reasoning and imagination, which have little connexion with a capacity for affairs. But the unforeseen events of debate, and the necessity of immediate answer in unpremeditated language, afford scope for quickness, firmness, boldness, wariness, presence of mind, and address in the management of men, which are among the qualities most essential to a statesman. The most flourishing period of our parliamentary eloquence extends for about half a century—from the maturity of Lord Chatham’s genius to the death of Mr. Fox. During the twenty years which succeeded, Mr. Canning was sometimes the leader, and always the greatest orator, of the party who supported the administration: among whom he was supported, but not rivalled, by able men, against opponents who were not thought by him inconsiderable, of whom one, at

least, was felt by every hearer, and acknowledged in private by himself, to have always forced his faculties into their very uttermost stretch.

“Had he been a dry and meagre speaker, he would have been universally allowed to be one of the greatest masters of argument; but his hearers were so dazzled by the splendour of his diction, that they did not perceive the acuteness and the sometimes excessive refinement of his reasoning; a consequence which, as it shows the injurious influence of a seductive fault, can with the less justice be overlooked in the estimate of his understanding. Ornament, it must be owned, when it only pleases or amuses, without disposing the audience to adopt the sentiments of the speaker, is an offence against the first law of public speaking, of which it obstructs instead of promoting the only reasonable purpose. But eloquence is a widely extended art, comprehending many sorts of excellence; in some of which ornamented diction is more liberally employed than in others; and in none of which the highest rank can be attained, without an extraordinary combination of mental powers. Among our own orators, Mr. Canning seems to be the best model of the adorned style. The splendid and sublime descriptions of Mr. Burke, his comprehensive and profound views of general principle, though they must ever delight and instruct the readers, must be owned to have been digressions which diverted the minds of the hearers from the object on which the speaker ought to have kept them steadily fixed. Sheridan, a man of admirable sense, and matchless wit, laboured to follow Burke into the foreign regions of feeling and grandeur, where the specimens preserved of his most celebrated speeches show too much of the exaggeration and excess to which those are peculiarly liable who seek by art and effort what nature has denied. By the constant part which Mr. Canning took in debate, he was called upon to show a knowledge which Sheridan did not possess, and a readiness which that accomplished man had no such means of strengthening and displaying. In some qualities of style, Mr. Canning surpassed Mr. Pitt. His diction was more various, sometimes more simple, more idiomatical, even in its more elevated parts. It sparkled with imagery, and was brightened by illustration; in both of which Mr. Pitt, for so great an orator, was defective.

“Mr. Canning possessed, in a high degree, the outward advantages of an orator. His expressive countenance varied with the changes of his eloquence; his voice, flexible and articulate, had as much compass as his mode of speaking required. In the calm part of his speeches, his attitude and gesture might have been selected by a painter to represent grace rising towards dignity.

“No English speaker used the keen and brilliant weapon of wit so long, so often, or so effectively, as Mr. Canning. He gained more triumphs, and incurred more enmity, by it than any other. Those whose importance depends much on birth and fortune are impatient of seeing their own artificial dignity, or that of their order, broken down by derision; and perhaps few men heartily forgive a successful jest against themselves, but those who are conscious of being unhurt by it. Mr. Canning often used this talent imprudently. In sudden flashes of wit, and in the playful description of men or things, he was often distinguished by that natural felicity which is the charm of pleasantry; to which the air of art and labour is more fatal than to any other talent. Sheridan was sometimes betrayed by an imitation of the dialogue of his master, Congreve, into a sort of laboured and finished jesting, so balanced and expanded, as sometimes to vie in tautology and monotony with the once applauded triads of Johnson; and which, even in its most happy passages, is more sure of commanding serious admiration than hearty laughter. It cannot be denied that Mr. Canning's taste was, in this respect, somewhat influenced by the example of his early friend.

“ Nothing could better prove the imperfect education of English statesmen at that time, and the capacity of Mr. Canning to master subjects the least agreeable to his pursuits and inclinations.

“ The exuberance of fancy and wit lessened the gravity of his general manner, and perhaps also indisposed the audience to feel his earnestness where it clearly showed itself. In that important quality he was inferior to Mr. Pitt,—

‘ Deep on whose front engraven,
Deliberation sat, and public care ; ’

and not less inferior to Mr. Fox, whose fervid eloquence flowed from the love of his country, the scorn of baseness, and the hatred of cruelty, which were the ruling passions of his nature. On the whole, it may be observed, that the range of Mr. Canning’s powers as an orator was wider than that in which he usually exerted them. When mere statement only was allowable, no man of his age was more simple. When infirm health compelled him to be brief, no speaker could compress his matter with so little sacrifice of clearness, ease, and elegance. In his speech on colonial reformation, in 1823, he seemed to have brought down the philosophical principles and the moral sentiments of Mr. Burke to that precise level where they could be happily blended with a grave and dignified speech, intended as an introduction to a new system of legislation. As his oratorical faults were those of youthful genius, the progress of age seemed to purify his eloquence, and every year appeared to remove some speck which hid, or at least, dimmed, a beauty. He daily rose to larger views, and made, perhaps, as near approaches to philosophical principles as the great difference between the objects of the philosopher and those of the orator will commonly allow.

“ When the memorials of his time, the composition of which he is said never to have interrupted in his busiest moments, are made known to the public, his abilities as a writer may be better estimated. His only known writings in prose are State Papers, which, when considered as the composition of a minister for foreign affairs, in one of the most extraordinary periods of European history, are undoubtedly of no small importance. Such of these papers as were intended to be a direct appeal to the judgment of mankind combine so much precision, with such uniform circumspection and dignity, that they must ever be studied as models of that very difficult species of composition. His Instructions to Ministers Abroad, on occasions both perplexing and momentous, will be found to exhibit a rare union of comprehensive and elevated views, with singular ingenuity in devising means of execution ; on which last faculty he sometimes relied perhaps more confidently than the short and dim foresight of man will warrant. ‘ Great affairs,’ says Lord Bacon, ‘ are commonly too coarse and stubborn to be worked upon by the fine edges and points of wit.’* His papers in negotiation were occasionally somewhat too controversial in their tone. They are not near enough to the manner of an amicable conversation about a disputed point of business, in which a negociator does not so much draw out his argument, as hint his own object, and sound the intention of his opponent. He sometimes seems to pursue triumph more than advantage, and not enough to remember that to leave the opposite party satisfied with what he has got, and in good humour with himself, is not one of the least proofs of a negociator’s skill. Where the papers were intended ultimately to reach the public through Parliament, it might be prudent to guard chiefly the final object ; and when this excuse

* “ It may be proper to remind the reader, that here the word ‘ wit ’ is used in its ancient sense.”

was wanting, much must be pardoned to the controversial habits of a parliamentary life. It is hard for a debater to be a negociator. The faculty of guiding public assemblies is very remote from the art of dealing with individuals.

“Mr. Canning’s power of writing verse may rather be classed with his accomplishments, than numbered among his high and noble faculties. It would have been a distinction for an inferior man. His verses were far above those of Cicero, of Burke, and of Bacon. The taste prevalent in his youth led him to more relish for sententious declaimers in verse than is shared by lovers of more true poetry of imagination and sensibility. In some respects his poetical compositions were also influenced by his early intercourse with Mr. Sheridan, though he was restrained by his more familiar contemplation of classical models from the glittering conceits of that extraordinary man. Something of an artificial and composite diction is discernible in the English poems of those who have acquired reputation by Latin verse, more especially since the pursuit of rigid purity has required so timid an imitation as not only to confine itself to the words, but to adopt none but the phrases of ancient poets; an effect of which Gray must be allowed to furnish an example.

“Absolute silence about Mr. Canning’s writings as a political satirist, which were for their hour so popular, might be imputed to undue timidity. In that character he yielded to General Fitzpatrick in arch stateliness and poignant raillery; to Mr. Moore in the gay prodigality with which he squanders his countless stores of wit; and to his own friend Mr. Freere in the richness of a native vein of original and fantastic drollery. In that ungenial province, where the brightest of the hasty laurels are apt very soon to fade, and where Dryden only boasts immortal lays, it is perhaps his best praise, that there is no writing of his, which a man of honour might not avow as soon as the first heat of contest was past.

“In some of the amusements or tasks of his boyhood there are passages which, without much help from fancy, might appear to contain allusions to his greatest measures of policy, as well as to the tenor of his life, and to the melancholy splendour which surrounded his death. In the concluding line of the first English verses written by him at Eton, he expressed a wish, which has been singularly realised, that he might—

‘Live in a blaze, and in a blaze expire.’

It is at least a striking coincidence, that the statesman, whose dying measure was to mature an alliance for the deliverance of Greece, should, when a boy, have written English verses on the slavery of that country; and that in his prize poem at Oxford, on the Pilgrimage to Mecca, a composition as much applauded as a modern Latin poem can aspire to be, he should have as bitterly deplored the lot of other renowned countries, now groaning under the same barbarous yoke.

‘Nunc Satrapæ imperio et sævo subdita Turcæ.’*

“To conclude:—he was a man of fine and brilliant genius, of warm affections, of high and generous spirit; a statesman, who, at home, converted most of his opponents into warm supporters; who, abroad, was the sole hope and trust of all who sought an orderly and legal liberty; and who was cut off in the midst of vigorous and splendid measures, which, if executed by himself, or with his own spirit, promised to place his name in the first class of rulers, among the founders of lasting peace, and the guardians of human improvement.”

* Iter ad Meccam, Oxford, 1789.

The Whigs continued to the ministry of Lord Goderich the support which they had given to that of Mr. Canning. The Goderich ministry soon died of its own staminal weakness and a Tory intrigue. It was succeeded by the short but memorable Wellington ministry. The Whigs, powerless to oppose an administration, which made up in political vigour what it wanted in political capacity, affected a disinterested forbearance. The affairs of Portugal were among the few subjects directly mooted between the opposition and the government; and, even in this instance, the motion made by Sir James Mackintosh was withdrawn. The Nero of Portugal, it should be remembered, had just begun to wanton in that instinctive cruelty and thirst of blood, which it is less humiliating to find in human nature, than that the human species should be base enough to tolerate them. The following are a few passages from the speech of Sir James Mackintosh:—

“Portugal was a country closely connected with Great Britain by alliances which had originated four hundred and fifty years ago—a connexion, he ventured to say, unparalleled in the whole history of mankind—a connexion which had not been interrupted by a cloud of disagreement for a single day. A treaty of alliance had subsisted between this country and Portugal for the space of one hundred and twenty years, which had never drawn England into a war, or exposed her to injury; but which, on the contrary, had exposed Portugal to invasion thrice—in 1761, in 1801, and again in 1807; and it would seem that, in addition to these sufferings, she was now to be abandoned to the yoke of an usurper, who had made his way to the throne by a series of falsehoods, perjuries, and frauds, which, in the case of any man amenable to law, would have subjected their perpetrator to the most disgraceful, if not the most extreme, punishment;—a man who laboured under the imputation of private crimes, imputations uncontradicted and unconfuted, which rather reminded us of the acts of Commodus and Caracalla than of the tame and common-place character of modern vice;—a man who bore upon his brow the brand of a pardon which he received from his king and his father for an act of parricidal rebellion. It was disgraceful that the ancient and faithful ally of England should have fallen under the yoke of such a man. In this case, the vices of the individual constituted a great part of the misfortunes of the nation which he ruled; and this circumstance justified the allusion to and the reprobation of them. His Majesty had twice told Parliament, though in milder language than this, that he and all the other powers of Europe had been obliged to cut off all diplomatic intercourse with this ancient and renowned member of the European Christian states, for nearly twelve months—a mark of displeasure almost, if not altogether, unexampled—a mark of displeasure, short of an actual declaration of war, the strongest that it was possible to affix upon any ruler. Europe had sat in judgment on the conduct of this man, who had brought dishonour on a once illustrious and still respectable country; and Europe, as a mark of its disapprobation of his proceedings, had pronounced the state which Don Miguel governed unworthy of being allowed to maintain relations of amity with other powers while she groaned under the yoke of the usurper. While Don Miguel received tokens of obedience from at

least a part of his subjects, his Majesty and his Majesty's ministers had recognised the royal rights and privileges of Donna Maria, with a high feeling of courtesy and justice, which did credit to the monarch and his advisers. He heartily approved of this part of our conduct towards the young queen; he spoke not now of consistency, and did not allude to the conduct of this country in other particulars. We had received Donna Maria with a degree of courtesy and respect, which her youth, innocence, royal rank, and grievous wrongs, were so well calculated to inspire. But, meanwhile, Don Miguel enjoyed the fruits of his crime at Lisbon, while his injured relative remained here an exile, deprived of her just rights and privileges. This was a case which, considering the House as the guardian of the national honour, and entitled to watch over our deportment to our allies, ought to receive the closest examination at our hands, with reference to every circumstance connected with the present state of the relations subsisting between us and our most ancient ally.

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"Perhaps it would here be prudent to arrest the argument, in order to examine into the nature of that principle of the law of nations, which should form so prominent a feature in the discussion of this question,—he meant the principle of neutrality. It was a word which required very exact definition. Neutrality was not a point, but rather a line. It was not indifference alike to the interests of both parties; neither was it equality of good opinion or good wishes. It was not that detestable insensibility to right or wrong, which argued the extinction of the better and more generous feelings of our nature. As a consequence of these admissions, it would be found, that although this country had considered itself bound by the principle of neutrality not actively to interfere in the case of the infamous partition of Poland, it had not considered itself restrained from reprobating that partition and spoliation, although at peace with those who effected that partition. Neither in the case of the sale of the island of Corsica had this country felt itself restrained from reprobating the conduct of France in concluding that shameful bargain. The principle of neutrality had not prevented this country from marking, with its animated reprobation, the conduct of its ally, France, when it designed and completed that most iniquitous invasion of another of our allies, Spain, in 1823. Having compared this principle to a line, he would follow up that observation by saying, that it was a line of such a length, that being induced by feelings or circumstances to take up a fresh position on it, or by straying from one point to another of it, we might change from a state or condition of a friendly nature towards a party to whom we had pledged our neutrality, to a state or condition which might almost be considered inimical to that state.

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"The last, though not the least deplorable fact, in his tragic story, which he would quote, was the atrocious conduct of Miguel in May last towards certain constitutional residents in Oporto. On the 7th of May, only three weeks ago, this perfidious usurper murdered—he said murdered—ten gentlemen in Oporto; for what? why, simply and solely for having, on the 18th of the preceding May, followed the example of England and Austria—not to talk of Russia, Prussia, and France—in recognising the constitution granted by Don Pedro, adopted by the Portuguese, and sworn to by the usurper himself. Two of these unfortunate gentlemen were reserved for a more protracted suffering under the pretence of being pardoned—one being sent for life to the lingering and agonising torture of the galleys at Angola; the other, the brother of the Portuguese ambassador at Brussels, being condemned for life to hard labour. By an edict of the most fiendish tyranny, those gentlemen were condemned first to witness the murder of their brave and high-

mind companions in loyalty to the constitution, which all Europe had acknowledged, England encouraged, and Miguel himself sworn to observe—a species of torture which the generous mind most acutely felt, and which was aggravated by the heroic fortitude of their companions' sufferings. On the day of the murder, the city of Oporto was a spectacle of horror; the rich had abandoned the town, and shut themselves up in their villas; the poor shut their doors, and the streets were abandoned to the executioner, the guards, and the ill-fated victims. The 16th of May was the day chosen by Miguel for this atrocious execution. It was a most deliberate act. It was not a mere punishment for offences which were legal, and for which an amnesty had been passed ten months before, and which had actually been planned before his arrival. No; it was a bold and deliberate defiance of civilised Europe—of Christendom; the princes and ministers of which he burnt in effigy, for having a few weeks before withdrawn their representatives from his polluted kingdom as from a city of the plague. He thought, by this slaughter of all who opposed his despotism, to force Europe into a recognition of his throne, to prevent the effusion of more blood. By dint of murder he hoped to force us to hail, as a Christian king, the man who despised justice, and had violated every law that regulated civilised man; and he held up his bloody hands in open defiance of all Europe, telling its rulers that he scorned their judgment while he defied their power."

Sir James Mackintosh ceased contributing to the *Edinburgh Review* with the number dated September, 1826. Two only of his contributions remain to be noticed: the first is on the Partitions of Poland, in the number dated November, 1822. The following passages from this article will be read with interest for the sake both of the writer and of the interesting, gallant, and most unfortunate nation to which they relate:—

"Little more than fifty years have passed since Poland continued to occupy a high place among the powers of Europe. Her natural means of wealth and force were inferior to those of few states of the second order. The surface of the country exceeded that of France; and the number of inhabitants was estimated at fourteen millions, a population probably exceeding that of the British islands, or of the Spanish peninsula, at the era of the first partition. The climate was nowhere unfriendly to health, or unfavourable to labour; the soil was fertile, the produce redundant; a large portion of the country, still uncleared, afforded ample scope for agricultural enterprise. Great rivers afforded easy means of opening an internal navigation from the Baltic to the Mediterranean. In addition to these natural advantages, there were many of those circumstances in the history and situation of Poland which render a people fond and proud of their country, and foster that national spirit which is the most effectual instrument either of defence or aggrandisement. Till the middle of the seventeenth century she was the predominating power of the North. With Hungary, and the maritime strength of Venice, she formed the eastern defence of Christendom against the Turkish tyrants of Greece, and on the north-east she was long the sole barrier against the more obscure barbarians of Muscovy, after they had thrown off the Tartarian yoke.* A nation which

* "Poloniam velut propugnaculum orbis Christiani."—"Polonia Germaniam ab irruptionibus BARBARORUM tutam præstitit."—*Puffendorff, Rerum Brandenburgicarum*, l. v. c. 31.

thus constituted a part of the vanguard of civilisation necessarily became martial, and gained all the renown in arms which could be acquired before war had become a science. The wars of the Poles, irregular, romantic, full of personal adventure, dependent on individual courage and peculiar character, proceeding little from the policy of cabinets, but deeply imbued by those sentiments of chivalry which may pervade a nation, chequered by extraordinary vicissitudes, carried on against barbarous enemies in remote and wild provinces, were calculated to leave a deep impression on the feelings of the people, and to give every man the liveliest interest in the glories and dangers of his country. Whatever renders the members of a community more like each other, and unlike their neighbours, usually strengthens the bonds of attachment between them. The Poles were the only representatives of the Sarmatian race in the assembly of civilised nations; their language and their national literature, those great sources of sympathy and objects of national pride, were cultivated with no small success. They contributed, in one instance, signally to the progress of science, and they took no ignoble part in those classical studies which composed the common literature of Europe. They were bound to their country by the peculiarities of its institutions and usages—perhaps, also, by the very defects in their government, which at last contributed to its fall, by those dangerous privileges, and by that tumultuary independence which rendered their condition as much above that of the slaves of absolute monarchy, as it was below the lot of those who inherit the blessings of legal and moral freedom. They had once another singularity, of which they might justly have been proud, if they had not abandoned it in times which ought to have been more enlightened. Soon after the Reformation, they set the first example of that true religious liberty which equally admits the members of all sects to the privileges, the offices, and dignities of the commonwealth. For nearly a century they afforded a secure asylum to those obnoxious sects of Anabaptists and Unitarians, whom all other states excluded from toleration; and the Hebrew nation, proscribed everywhere [else for several ages, found a second country, with protection for their learned and religious establishments, in this hospitable and tolerant land.

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“Kosciusko, harassed by the advance of an Austrian, Prussian, and Russian army, concentrated the greater part of his army around Warsaw. Frederic William advanced against the capital at the head of 40,000 disciplined troops. Kosciusko, with 12,000 irregulars, made an obstinate resistance for several hours, on the 8th of June, and retired to his entrenched camp before Warsaw. The Prussians took possession of Cracow; and summoned the capital to surrender, under pain of all the horrors suffered by towns which are taken by assault. After two months employed in vain attempts to reduce the city, the King of Prussia was compelled, by an insurrection in his lately acquired Polish province, to retire with precipitation and disgrace. But in the meantime, the Russians advanced, in spite of the gallant resistance of General Count Joseph Sierakowski, one of the most faithful friends of his country. On the 4th of October, Kosciusko, with only 18,000 men, thought it necessary to hazard a battle at Macciowice, to prevent the junction of the two Russian divisions of Suwarrow and Fersen. Success was long and valiantly contested. According to some narrations, the enthusiasm of the Poles would have prevailed, if the treachery or incapacity of Count Poninski had not favoured the Russians. That officer neither defended a river, where he had been ordered to make a stand, nor brought up his division to support his General. Kosciusko, after the most admirable exertions of judgment and courage, fell, covered with wounds. The Polish army fled. The Russians and Cossacks were melted at the sight of their gallant enemy, who lay insensible on the field. When he opened his eyes, and learnt the

full extent of the disaster, he vainly implored the enemy to put an end to his sufferings. The Russian officers, moved with admiration and compassion, treated his wounds with tenderness, and sent him, with due respect, a prisoner of war to Petersburg. Catherine threw him into a dungeon, from which he was released by Paul, on his succession, perhaps, partly from hatred to his mother, and partly from one of those paroxysms of transient generosity, of which that brutal lunatic was not incapable.

“ From that moment the farther defence of Poland became hopeless. Suwarrow advanced to the capital, and stimulated his army to the assault of the great suburb of Praga, by the barbarous promise of a licence to pillage for forty-eight hours. A dreadful contest ensued on the 4th of November, 1794, in which the inhabitants performed prodigies of useless valour, making a stand in every street, and at almost every house. All the horrors of war, which the most civilised armies practise on such occasions, were here seen with tenfold violence. No age, or sex, or condition was spared. The murder of children formed a sort of barbarous sport for the assailants. The most unspeakable outrages were offered to the living and the dead. The mere infliction of death was an act of mercy. The streets streamed with blood. Eighteen thousand human carcasses were carried away from them after the massacre had ceased. Many were burnt to death in the flames which consumed the town. Multitudes were driven by the bayonet into the Vistula. A great body of fugitives perished by the fall of the great bridge, over which they fled. These tremendous scenes closed the resistance of Poland, and completed the triumph of her oppressors. The Russian army entered Warsaw on the 9th of November, 1794. Stanislaus was suffered to amuse himself with the formalities of royalty for some months longer. In obedience to the order of Catherine, he abdicated on the 25th of November, 1795—a day which, being the anniversary of his coronation, seemed to be chosen to complete his humiliation. Quarrels about the division of the booty retarded the complete execution of the formal and final partition till the beginning of the year 1796.

“ Thus fell the Polish people, after a wise and virtuous attempt to establish liberty, and a heroic struggle to defend it—by the flagitious wickedness of Russia—by the foul treachery of Prussia—by the unprincipled accession of Austria—and by the short-sighted, as well as mean-spirited, acquiescence of all the nations of Europe.”

His last article appeared in the number dated September, 1826:—on the subject of the Danish Revolution which led to the imprisonment of Caroline Matilda, sister of George III., and to the death of Struensee. The forced marriage, and consequent misfortunes, of that princess are well known. They drew from Sir James Mackintosh the following just and pregnant observation:—

“ It is difficult to contain the indignation which naturally arises from the reflection, that at this very time, and with a full knowledge of the fate of the Queen of Denmark, the Royal Marriage Act was passed in England for the avowed purpose of preventing the only marriages of preference, which a princess, at least, has commonly the opportunity of forming. Of a monarch, who thought so much more of the pretended degradation of his brother than of the cruel misfortunes of his sister, less cannot be said than that he must have had more pride than tenderness. Even the capital punishment of Struensee for such an offence will be justly condemned by

all but English lawyers, who ought to be silenced by the consciousness that the same barbarous disproportion of a penalty to an offence is sanctioned, in the like case, by their own law."

Those who may be led away by the notion that absolute power can be any thing but the worst of evils, even in Denmark, where it was formally surrendered by the nation to the sovereign, and where absolute government has been represented as so full of comfort to the people, should peruse this article: —

"It became a fashion," says Sir James, "among slavish sophists to quote the example of Denmark as a proof of the harmlessness of despotism, and of the indifference of forms of government:—'Even in Denmark,' it was said, 'where the king is legally absolute, civil liberty is respected, justice is well administered, the persons and property of men are secure, the whole administration is more moderate and mild than that of most governments which are called free. The progress of civilization, and the power of public opinion, more than supply the place of popular institutions.' These representations were aided by that natural disposition of the human mind, when a good consequence unexpectedly appears to spring from a bad institution, to be hurried into the extreme of doubting whether the institution be not itself good, without waiting to balance the evil against the good, or even duly to ascertain the reality of the good. No species of discovery produces so agreeable a surprise, and, consequently, so much readiness to assent to its truth, as that of the benefits of an evil. There are no paradoxes more captivating than the apologies of old abuses and corruptions.

"The honest narrative of Falkenskiold, however, tells us a different tale. The first of the despotic kings, jealous of the nobility, bestowed the highest offices on adventurers, who were either foreigners, or natives of the lowest sort. Such is the universal practice of Eastern tyrants. Such was, for a century, the condition of Spain, the most Oriental of European countries. The same characteristic feature of despotism is observable in the history of Russia. All talent being extinguished among the superior classes, by withdrawing every object which excites and exercises the faculties, the prince finds a common capacity for business only abroad, or amongst the lowest classes of his subjects. Bernstorff, a Hanoverian, Lynar, a Saxon, and St. Germain, a Frenchman, were among the ablest of the Danish ministers. The country was governed for a hundred years by foreigners. Unacquainted with Denmark, and disdaining even to acquire its language, they employed Danish servants as their confidential agents, and placed them in all the secondary offices. The natives followed their example. Footmen occupied important offices. So prevalent was this practice, that a law was at length passed by the ill-fated Struensee, to forbid this new rule of freemen. Some of the foreign ministers, with good intentions, introduced ostentatious establishments, utterly unsuitable to one of the poorest countries of Europe. With a population of two millions and a half, and a revenue of a million and a half sterling, Denmark, in 1769, had on foot an army of sixty-six thousand men; so that about a ninth of the males of the age of labour were constantly idle and under arms. There was a debt of nearly ten millions sterling, after fifty years' peace. An inconvertible paper money, always discredited, and daily fluctuating, rendered contracts nugatory, and made it impossible to determine the value of property, or to estimate the wages of labour. The barren and mountainous country of Norway, out of a population of seven hundred thousand souls, contributed twenty thousand men to the army, nine thousand to the local

militia, and fourteen thousand enrolled for naval service, forming a total of forty-three thousand conscripts, the fourth part of the labouring males being thus set apart by conscription for military service. The majority of the officers of the army were foreign, and the words of command were given in the German language. The navy was disproportioned to the part of the population habitually employed in maritime occupation; but it was the natural force of the country. The seamen were skilful and brave, and their gallant resistance to Nelson, in 1801, is the greatest honour of the Danish name in modern times. Their colonies were useful and costly.

“The administration of law was neither just nor humane. The torture was in constant use. The treatment of the galley slaves at Copenhagen caused travellers who had seen the Mediterranean ports to shudder. One of the mild modes of removing an unpopular minister was to send him a prisoner for life to a dungeon under the Arctic circle.

“The effect of absolute government in debasing the rulers was remarkable in Denmark. One of the principal amusements of Frederic V., who sat on the throne from 1746 to 1766, consisted in mock matches at boxing and wrestling with his favourites, in which it was not always safe to gain an advantage over the royal gladiator. His son and successor, Christian VII., was either originally deficient in understanding, or had, by vicious practice in boyhood, so much impaired his mental faculties, that considerable wonder was felt at Copenhagen at his being allowed in 1768 to display his imbecility in a tour through a great part of Europe. The elder Bernstorff, then at the head of the council, was unable to restrain the king and his favourite Stolk from this indiscreet exposure. Such, however, is the power of ‘the solemn plausibilities of the world,’ that in France this unhappy person was complimented by academies, and in England works of literature were inscribed to him.”

The remaining, and the most important, literary works of Sir James Mackintosh, are the unfinished History of the Revolution of 1688, contained in the present volume; “A general View of Ethical Philosophy,” begun in the first, and completed in the second, volume of the Edinburgh edition of the Encyclopædia Britannica; “The History of England, from the Roman Conquest of Britain to the Sixteenth Year of the Reign of Elizabeth;” and the “Life of Sir Thomas More,” both published in the Cabinet Cyclopædia. Of the merits and character of the first-mentioned work here presented to the reader nothing need be said. The dissertation on the progress of ethical philosophy not only sustained but advanced his reputation, already eminent in speculative science. Less studious or ostentatious of the graces and ornaments of composition than Dugald Stewart, less negligent of them than other writers, his style has in general* a sustained and simple elegance

* This qualification may appear invidious or unjust; it is however called for by such exceptions as the following illustration of the system of Hobbes:—“The moral and political system of Hobbes was a palace of ice, transparent, exactly proportioned,

which becomes the subject, and charms the reader. The first and last impressions left upon the mind by the perusal of this essay is that of his vast reading and deep meditation on the principles of morals. He neither starts a new theory, nor throws his weight, at least decisively, into either scale, where he considers the more modern controversies of adverse schools. It is true that he maintains the existence of perfectly disinterested benevolence, and—with some qualification—of the moral sense. But it may be said, on the whole, that he rather views and wanders over the surface of the science in its progress from the earliest time, and from its earliest cultivators, to the most recent,—characterising the principles, or examining the writings, of the chiefs of sects and schools, from Epicurus to Bentham. It should be observed, that his view chiefly and professedly respects the progress of ethics in the seventeenth and eighteenth centuries, giving naturally, and perhaps reasonably, his main attention to its cultivation in the United Kingdom. He begins by distinguishing and defining, as follows, the physical and moral sciences :—

“But however multiplied the connexions of the moral and physical sciences are, it is not difficult to draw a general distinction between them. The purpose of the physical sciences throughout all their provinces is to answer the question, *What is?* They consist only of facts arranged according to their likeness, and expressed by general names given to every class of similar facts. The purpose of the moral sciences is to answer the question, *What ought to be?* They aim at ascertaining the rules which *ought* to govern voluntary action, and to which those habitual dispositions of mind which are the source of voluntary actions *ought* to be adapted.”

After some preliminary observations, he glances over ancient ethics. The following *coup d'œil* is admirable. No one endued with the least sense of the beautiful in morals, or in style, could bring himself to curtail it :—

“It was not till near a century after the death of Plato, that ethics became the scene of philosophical contest between the adverse schools of Epicurus and Zeno, whose errors afford an instructive example, that, in the formation of theory, partial truth is equivalent to absolute falsehood. As the astronomer who left either the centripetal or the centrifugal force of the planets out of his view would err as completely as he who excluded both, so the Epicureans and Stoics, who each confined themselves to real but not exclusive principles in morals, departed as widely from the truth as if they had adopted no part of it. Every partial theory

majestic, admired by the unwary as a delightful dwelling ; but gradually undermined by the central warmth of human feeling, before it was thawed into muddy water by the sunshine of true philosophy.”

is, indeed, directly false, inasmuch as it ascribes to one or few causes what is produced by more. As the extreme opinions of one, if not both, of these schools have been often revived, with variations and refinements, in modern times, and are still not without influence on ethical systems, it may be allowable to make some observations on this earliest of moral controversies.

“ ‘All other virtues,’ said Epicurus, ‘grow from prudence, which teaches that we cannot live pleasurable without living justly and virtuously, nor live justly and virtuously without living pleasurable.’ The illustration of this sentence formed the whole moral discipline of Epicurus. To him we owe the general concurrence of reflecting men in succeeding times, in the important truth, that men cannot be happy without a virtuous frame of mind and course of life ; a truth of inestimable value, not peculiar to the Epicureans, but placed by their exaggerations in a stronger light ; a truth, it must be added, of less importance as a motive to right conduct than to the completeness of moral theory, which, however, it is very far from solely constituting. With that truth the Epicureans blended another position, which, indeed, is contained in the first words of the above statement ; namely, that because virtue promotes happiness, every act of virtue must be done in order to promote the happiness of the agent. They and their modern followers tacitly assume, that the latter position is the consequence of the former ; as if it were an inference from the necessity of food to life, that the fear of death should be substituted for the appetite of hunger as a motive for eating. ‘Friendship,’ says Epicurus, ‘is to be pursued by the wise man only for its usefulness, but he will begin as he sows the field in order to reap.’ It is obvious that, if these words be confined to outward benefits, they may be sometimes true, but never can be pertinent ; for outward acts sometimes show kindness, but never compose it. If they be applied to kind feeling they would, indeed, be pertinent, but they would be evidently and totally false ; for it is most certain that no man acquires an affection merely from his belief that it would be agreeable or advantageous to feel it. Kindness cannot, indeed, be pursued on account of the pleasure which belongs to it : for man can no more know the pleasure till he has felt the affection, than he can form an idea of colour without the sense of sight. The moral character of Epicurus was excellent ; no man more enjoyed the pleasure or better performed the duties of friendship. The letter of his system was no more indulgent to vice than that of any other moralist.* Although, therefore, he has the merit of having more strongly inculcated the connexion of virtue with happiness, perhaps, by the faulty excess of treating it as an exclusive principle, yet his doctrine was justly charged with indisposing the mind to those exalted and generous sentiments, without which no pure, elevated, bold, generous, or tender virtues can exist.

“As Epicurus represented the *tendency* of virtue, which is a most important truth in ethical theory, as the sole inducement to virtuous practice ; so Zeno, in his disposition towards the opposite extreme, was inclined to consider the moral sentiments which are motives of right conduct, as being the sole principles of moral science. The confusion was equally great in a philosophical view ; but that of Epicurus was more fatal to interests of higher importance than those of philosophy. Had the Stoics been content with affirming that virtue is the source of all that part of our happiness which depends on ourselves, they would have taken

* It is due to him to observe that he treated humanity towards slaves as one of the characteristics of a wise man. ΟΥΤΕ ΧΟΛΑΣΕΙΝ ΟΙΚΕΤΑΣ, ΕΛΕΗΣΕΙΝ ΜΕΝ ΤΑ ΚΑΙ ΣΥΓΓΥΝΑΜΗΝ ΤΙΝΙ ΕΞΕΙΝ ΤΩΝ ΣΠΟΥΔΑΙΩΝ. (DIOG. LAERT. lib. x. edit. Meibom. I. 653.) It is not unworthy of remark, that neither Plato nor Epicurus thought it necessary to abstain from these topics in a city full of slaves, many of whom were men not destitute of knowledge.

a position from which it would have been impossible to drive them ; they would have laid down a principle of as great comprehension in practice as their wider pretensions ; a simple and incontrovertible truth, beyond which every thing is an object of mere curiosity to man. Our information, however, about the opinions of the more celebrated Stoics is very scanty. None of their own writings are preserved. We know little of them but from Cicero, the translator of Grecian philosophy, and from the Greek compilers of a later age ; authorities which would be imperfect in the history of facts, but which are of far less value in the history of opinions, where a right conception often depends upon the minutest distinctions between words. We know that Zeno was more simple, and that Chrysippus, who was accounted the prop of the Stoic Porch, abounded more in subtile distinction and systematic spirit. His power was attested as much by the antagonists whom he called forth, as by the scholars whom he formed. ‘Had there been no Chrysippus, there would have been no Carneades,’ was the saying of the latter philosopher himself ; as it might have been said in the eighteenth century, ‘Had there been no Hume, there would have been no Kant and no Reid. Cleanthes, when one of his followers would pay court to him by laying vices to the charge of his most formidable opponent, Arcesilaus, the Academic, answered, with a justice and candour unhappily too rare, ‘Silence, do not malign him ; though he attacks virtue with his arguments, he confirms its authority by his life.’ Arcesilaus, whether modestly or churlishly, replied, ‘I do not choose to be flattered.’ Cleanthes, with a superiority of repartee as well as charity, replied, ‘Is it flattery to say that you speak one thing and do another ?’ It would be vain to expect that the fragments of the professors who lectured in the Stoic school for five hundred years should be capable of being moulded into one consistent system ; and we see that, in Epictetus at least, the exaggeration of the sect was lowered to the level of reason, by confining the sufficiency of virtue to those cases only where happiness is attainable by our voluntary acts. It ought to be added, in extenuation of a noble error, that the power of habit and character to struggle against outward evils has been proved by experience to be in some instances so prodigious, that no man can presume to fix the utmost limit of its possible increase.

“The attempt, however, of the Stoics to stretch the bounds of their system beyond the limits of nature, produced the inevitable inconvenience of dooming them to fluctuate between a wild fanaticism on the one hand, and, on the other, concessions which left their differences from other philosophers purely verbal. Many of their doctrines appear to be modifications of their original opinions, introduced as opposition became more formidable. In this manner they were driven to the necessity of admitting that the objects of our desires and appetites are worthy of preference, though they are denied to be constituents of happiness. It was thus that they were obliged to invent a double morality ; one for mankind at large, from whom was expected no more than the *καθηκον*, which seems principally to have denoted acts of duty done from inferior or mixed motives ; and the other, which they appear to have hoped from their ideal wise man, is *κατορθωμα*, or perfect observance of rectitude, which consisted only in moral acts done from mere reverence for morality, unaided by any feelings ; all which (without the exception of pity) they classed among the enemies of reason and the disturbers of the human soul. Thus did they shrink from their proudest paradoxes into verbal evasions. It is remarkable that men so acute did not perceive and acknowledge, that, if pain were not an evil, cruelty would not be a vice ; and that, if patience were of power to render torture indifferent, virtue must expire in the moment of victory. There can be no more triumph when there is no enemy left to conquer.

“The influence of men’s opinions on the conduct of their lives is checked and

modified by so many causes; it so much depends on the strength of conviction, on its habitual combination with feelings, on the concurrence or resistance of interest, passion, example, and sympathy—that a wise man is not the most forward in attempting to determine the power of its single operation over human actions. In the case of an individual it becomes altogether uncertain. But, when the experiment is made on a large scale; when it is long-continued and varied in its circumstances; and especially when great bodies of men are for ages the subject of it, we cannot reasonably reject the consideration of the inferences to which it appears to lead. The Roman patriciate, trained in the conquest and government of the civilised world, in spite of the tyrannical vices which sprung from that training, were raised by the greatness of their objects to an elevation of genius and character unmatched by any other aristocracy; at the moment when, after preserving their power by a long course of wise compromise with the people, they were betrayed by the army and the populace into the hands of a single tyrant of their own order—the most accomplished of usurpers, and, if humanity and justice could for a moment be silent, one of the most illustrious of men. There is no scene in history so memorable as that in which Cæsar mastered a nobility of which Lucullus and Hortensius, Sulpicius and Catullus, Pompey and Cicero, Brutus and Cato, were members. This renowned body had from the time of Scipio sought the Greek philosophy as an amusement or an ornament. Some few, ‘in thought more elevate,’ caught the love of truth, and were ambitious of discovering a solid foundation for the rule of life. The influence of the Grecian systems was tried by their effect on a body of men of the utmost originality, energy, and variety of character, during the five centuries between Carneades and Constantine, in their successive positions of rulers of the world, and of slaves under the best and under the worst of uncontrolled masters. If we had found this influence perfectly uniform, we should have justly suspected our own love of system of having in part bestowed that appearance on it. Had there been no trace of such an influence discoverable in so great an experiment, we must have acquiesced in the paradox, that opinion does not at all affect conduct. The result is the more satisfactory, because it appears to illustrate general tendency without excluding very remarkable exceptions. Though Cassius was an Epicurean, the true representative of that school was the accomplished, prudent, friendly, good-natured time-server Atticus, the pliant slave of every tyrant, who could kiss the hand of Antony, imbrued as it was in the blood of Cicero. The pure school of Plato sent forth Marcus Brutus, the signal humanity of whose life was both necessary and sufficient to prove that his daring breach of venerable rules flowed only from that dire necessity which left no other means of upholding the most sacred principles. The Roman orator, though in speculative questions he embraced that mitigated doubt which allowed most ease and freedom to his genius, yet, in those moral writings where his heart was most deeply interested, followed the severest sect of philosophy, and became almost a Stoic. If any conclusion may be hazarded from this trial of systems, the greatest which history has recorded, we must not refuse our decided, though not undistinguishing, preference to that noble school which preserved great souls untainted at the court of dissolute and ferocious tyrants; which exalted the slave of one of Nero’s courtiers to be a moral teacher of after-times; which for the first, and hitherto for the only, time breathed philosophy and justice into those rules of law which govern the ordinary concerns of every man; and which, above all, has contributed, by the examples of Marcus Portius Cato and of Marcus Aurelius Antoninus, to raise the dignity of our species, to keep alive a more ardent love of virtue, and a more awful sense of duty, throughout all generations.

“ The result of this short review of the practical philosophy of Greece seems to

be, that though it was rich in rules for the conduct of life, and in exhibitions of the beauty of virtue, and though it contains glimpses of just theory and fragments of, perhaps, every moral truth, yet it did not leave behind any precise and coherent system; unless we except that of Epicurus, who purchased consistency, method, and perspicuity too dearly by the sacrifice of truth, and by narrowing and lowering his views of human nature, so as to enfeeble, if not extinguish, all the vigorous motives to arduous virtue."

A notice of the ethics of the schoolmen comes next, and opens as follows:—

"An interval of a thousand years elapsed between the close of ancient and the rise of modern philosophy; the most unexplored, yet not the least instructive, portion of the history of European opinion. In that period the sources of the institutions, the manners, the characteristic distinctions of modern nations, have been traced by a series of philosophical enquiries, from Montesquieu to Hallam; and there also, it may be added, more than among the ancients, are the well-springs of our speculative doctrines and controversies. Far from being inactive, the human mind, during that period of exaggerated darkness, produced discoveries in science, inventions in art, and contrivances in government, some of which, perhaps, were rather favoured than hindered by the disorders of society, and by the twilight in which men and things were seen. Had Boethius, the last of the ancients, foreseen that, within two centuries of his death, in the province of Britain, then a prey to all the horrors of barbaric invasion, a chief of one of the fiercest tribes of barbarians should translate into the jargon of his freebooters the work on *The Consolations of Philosophy*, of which the composition had soothed the cruel imprisonment of the philosophic Roman himself, he must, even amidst his sufferings, have derived some gratification from such an assurance of the recovery of mankind from ferocity and ignorance. But, had he been allowed to revisit the earth in the middle of the sixteenth century, with what wonder and delight must he have contemplated the new and fairer order which was beginning to disclose its beauty, and to promise more than it revealed! He would have seen personal slavery nearly extinguished, and women, first released from Oriental imprisonment by the Greeks, and raised to a higher dignity among the Romans, at length fast approaching to due equality—two revolutions the most signal and beneficial since the dawn of civilisation. He would have seen the discovery of gunpowder, which for ever guarded civilised society against barbarians, while it transferred military strength from the few to the many; of paper and printing, which rendered a second destruction of the repositories of knowledge impossible, as well as opened a way by which it was to be finally accessible to all mankind; of the compass, by means of which navigation had ascertained the form of the planet, and laid open a new continent more extensive than his world. If he had turned to civil institutions, he might have learned that some nations had preserved an ancient and seemingly rude mode of legal proceeding, which threw into the hands of the majority of men a far larger share of judicial power than was enjoyed by them in any ancient democracy. He would have seen everywhere the remains of that principle of representation, the glory of the Teutonic race, by which popular government, anciently imprisoned in cities, became capable of being strengthened by its extension over vast countries, to which experience cannot even now assign any limits; and which, in times still distant, was to exhibit, in the newly discovered continent, a republican confederacy, likely to surpass the Macedonian and Roman empires in extent, greatness, and duration, but gloriously founded on

the equal rights, not, like them, on the universal subjection, of mankind. In one respect, indeed, he might have lamented that the race of man had made a really retrograde movement; that they had lost the liberty of philosophising; that the open exercise of their highest faculties was interdicted. But he might also have perceived that this giant evil had received a mortal wound from Luther, who, in his warfare against Rome, had struck a blow against all human authority, and unconsciously disclosed to mankind that they were entitled, or rather bound, to form and utter their own opinions, and, most of all, on the most deeply interesting subjects; for, although this most fruitful of moral truths was not yet so released from its combination with the wars and passions of the age as to assume a distinct and visible form, its action was already discoverable in the divisions among the reformers, and in the fears and struggles of civil and ecclesiastical oppressors. The Council of Trent, and the courts of Paris, Madrid, and Rome, had before that time foreboded the emancipation of reason."

Having reached modern ethics, he begins with Hobbes. His character of the philosopher of Malmesbury opens thus:—

"Thomas Hobbes of Malmesbury may be numbered among those eminent persons born in the latter half of the sixteenth century, who gave a new character to European philosophy in the succeeding age. He was one of the late writers and late learners. It was not till he was nearly thirty that he supplied the defects of his early education, by classical studies so successfully prosecuted, that he wrote well in the Latin, then used by his scientific contemporaries; and made such proficiency in Greek as, in his earliest work, the translation of Thucydides, published when he was forty, to afford a specimen of a version still valued for its remarkable fidelity; though written with a stiffness and constraint very opposite to the masterly facility of his original compositions. It was after forty that he learned the first rudiments of geometry (so miserably defective was his education); but yielding to the paradoxical disposition apt to infect those who begin to learn after the natural age of commencement, he exposed himself by absurd controversies with the masters of a science which looks down with scorn on the sophist. A considerable portion of his mature age was passed on the Continent, where he travelled as tutor to two successive Earls of Devonshire; a family with whom he seems to have passed nearly half a century of his long life. In France his reputation, founded at that time solely on personal intercourse, became so great, that his observations on the *Meditations* of Descartes were published in the works of that philosopher, together with those of Gassendi and Arnauld. It was about his sixtieth year that he began to publish those philosophical writings which contain his peculiar opinions; which set the understanding of Europe into general motion, and stirred up controversies among metaphysicians and moralists, not even yet determined. At the age of eighty-seven he had the boldness to publish metrical versions of the *Iliad* and *Odyssey*, which the greatness of his name, and the singularity of the undertaking, still render objects of curiosity, if not of criticism. He owed his influence to various causes; at the head of which may be placed that genius for system, which, though it cramps the growth of knowledge, perhaps finally atones for that mischief by the zeal and activity which it rouses among followers and opponents, who discover truth by accident, when in pursuit of weapons for their warfare."

No extract within the compass of these pages would give a just idea of the expositions which he gives, and the remarks which

he subjoins in refutation of the principles, political and moral, taught by that most ingenious of dogmatists. The following are a few passages from the characters which he has drawn of other ethical writers, down to his own contemporaries and friends:—

SHAFTESBURY.—“Lord Shaftesbury, the author of the *Characteristics*, was the grandson of Sir Anthony Ashley Cooper, created Earl of Shaftesbury, one of the master spirits of the English nation, whose vices, the bitter fruits of the insecurity of a troublous time, succeeded by the corrupting habits of an inconstant, venal, and profligate court, have led an ungrateful posterity to overlook his wisdom, and disinterested perseverance, in obtaining for the English nation the unspeakable benefits of the Habeas Corpus act. The fortune of the *Characteristics* has been singular. For a time the work was admired more undistinguishingly than its literary character warrants. In the succeeding period it was justly criticised, but too severely condemned. Of late, more unjustly than in either of the former cases, it has been generally neglected. It seemed to have the power of changing the temper of its critics. It provoked the amiable Berkeley to a harshness equally unwonted and unwarranted; while it softened the rugged Warburton so far as to dispose the fierce yet not altogether ungenerous polemic to praise an enemy in the very heat of conflict.

“Leibnitz, the most celebrated of continental philosophers, warmly applauded the *Characteristics*, and (what was a more certain proof of admiration), though at an advanced age, criticised that work minutely. Le Clerc, who had assisted the studies of the author, contributed to spread its reputation by his *Journal*, then the most popular in Europe. Locke is said to have aided in his education, probably rather by counsel than by tuition. The author had indeed been driven from the regular studies of his country by the insults with which he was loaded at Winchester school, when he was only twelve years old, immediately after the death of his grandfather; a choice of time which seemed not so much to indicate anger against the faults of a great man, as triumph over the principles of liberty, which seemed at that time to have fallen for ever. He gave a genuine proof of respect for freedom of thought, by preventing the expulsion from Holland of Bayle (with whom he differs in every moral, political, and, it may be truly added, religious opinion), when, it must be owned, the right of asylum was, in strict justice, forfeited by the secret services which the philosopher had rendered to the enemy of Holland and of Europe. In the small part of his short life, which premature infirmities allowed him to apply to public affairs, he co-operated zealously with the friends of freedom; but, as became a moral philosopher, he supported, even against them, a law to allow those who were accused of treason to make their defence by counsel, although the parties first to benefit from this act of imperfect justice were conspirators to assassinate King William, and to re-enslave their country. On that occasion it is well known with what admirable quickness he took advantage of the embarrassment which seized him when he rose to address the House of Commons. ‘If I,’ said he, ‘who rise only to give my opinion on this bill, am so confounded that I cannot say what I intended, what must the condition of that man be, who, without assistance, is pleading for his own life!’ He was the friend of Lord Somers; and the tribute paid to his personal character by Warburton, who knew many of his contemporaries and some of his friends, may be considered as evidence of its excellence.

“His fine genius and generous spirit shine through his writings; but their lustre is often dimmed by peculiarities, and, it must be said, by affectations, which, originating in local, temporary, or even personal, circumstances, are particularly fatal

to the permanence of fame. There is often a charm in the egotism of an artless writer or of an actor in great scenes; but other laws are imposed on the literary artist. Lord Shaftesbury, instead of hiding himself behind his work, stands forward, with too frequent marks of self-complacency, as a nobleman of polished manners, with a mind adorned by the fine arts, and instructed by ancient philosophy; shrinking with a somewhat effeminate fastidiousness from the clamour and prejudices of the multitude, whom he neither deigns to conciliate nor puts forth his strength to subdue. The enmity of the majority of churchmen to the government established at the Revolution was calculated to fill his mind with angry feelings; which overflow too often, if not upon Christianity itself, yet upon representations of it, closely intertwined with those religious feelings to which, in other forms, his own philosophy ascribes surpassing worth. His small and occasional writings, of which the main fault is the want of an object or a plan, have many passages remarkable for the utmost beauty and harmony of language. Had he imbibed the simplicity as well as copied the expression and cadence of the greater ancients, he would have done more justice to his genius; and his works, like theirs, would have been preserved by that quality, without which but a very few writings, of whatever mental power, have long survived their writers. Grace belongs only to natural movements; and Lord Shaftesbury, notwithstanding the frequent beauty of his thoughts and language, has rarely attained it. He is unfortunately prone to pleasantry, which is obstinately averse from constraint, and which he had no interest in raising to be the test of truth. His affectation of liveliness as a man of the world tempts him sometimes to overstep the indistinct boundaries which separate familiarity from vulgarity. Of his two more considerable writings, the *Moralists*, on which he evidently most valued himself, and which is spoken of by Leibnitz with enthusiasm, is by no means the happiest; yet perhaps there is scarcely any composition in our language more lofty in its moral and religious sentiments, and more exquisitely elegant and musical in its diction, than the Platonic representation of the scale of beauty and love in the speech to Palemon near the close of the first part. Many passages might be quoted, which, in some measure, justify the enthusiasm of the septuagenarian geometer. Yet it is not to be concealed that, as a whole, it is heavy and languid. It is a modern antique. The Dialogues of Plato are often very lively representations of conversations which might take place daily at a great university, full, like Athens, of rival professors and eager disciples,—between men of various character, and great fame as well as ability. Socrates runs through them all. His great abilities, his still more venerable virtues, his cruel fate, especially when joined to his very characteristic peculiarities,—to his grave humour, to his homely sense, to his assumed humility, to the honest slyness with which he ensnared the Sophists, and to the intrepidity with which he dragged them to justice, gave unity and dramatic interest to these dialogues as a whole. But Lord Shaftesbury's dialogue is between fictitious personages, and in a tone at utter variance with English conversation. He had great power of thought and command over words. But he had no talent for inventing character and bestowing life on it. The *Enquiry concerning Virtue* is nearly exempt from the faulty peculiarities of the author; the method is perfect, the reasoning just, the style precise and clear. The writer has no purpose but that of honestly proving his principles; he himself altogether disappears; and he is intent only on earnestly enforcing what he truly, conscientiously, and reasonably believes. Hence the charm of simplicity is revived in this production, which is unquestionably entitled to a place in the first rank of English tracts on moral philosophy.

LEIBNITZ.—“There is a singular contrast between the form of Leibnitz's writings

and the character of his mind. The latter was systematical, even to excess. It was the vice of his prodigious intellect, on every subject of science where it was not bound by geometrical chains, to confine his view to those most general principles, so well called by Bacon 'merely notional;' which render it, indeed, easy to build a system, but only because they may be alike adapted to every state of appearances, and become thereby really inapplicable to any. Though his genius was thus naturally turned to system, his writings were, generally, occasional and miscellaneous. The fragments of his doctrines are scattered in Reviews; or over a voluminous Literary Correspondence; or in the Prefaces and Introductions to those compilations to which this great philosopher was obliged by his situation to descend. This defective and disorderly mode of publication arose partly from the jars between business and study, inevitable in his course of life; but probably yet more from the nature of his system which, while it widely deviates from the most general principles of former philosophers, is ready to embrace their particular doctrines under its own generalities, and thus to reconcile them to each other, as well as to accommodate itself to popular or established opinions, and compromise with them, according to his favourite and oft-repeated maxim, '*that most received doctrines are capable of a good sense*;' by which last words our philosopher meant, a sense reconcilable with his own principles. Partial and occasional exhibitions of these principles suited better that constant negotiation with opinions, establishments, and prejudices, to which extreme generalities are well adapted, than a full and methodical statement of the whole at once. It is the lot of every philosopher who attempts to make his principles extremely flexible, that they become like those tools which bend so easily as to penetrate nothing. Yet his manner of publication perhaps led him to those wide intuitions, as comprehensive as those of Bacon, of which he expressed the result as briefly and pithily as Hobbes. The fragment which contains his ethical principles is the preface to a collection of documents illustrative of international law, published at Hanover in 1693; to which he often referred as his standard afterwards, especially when he speaks of Lord Shaftesbury, or of the controversy between the two great theologians of France. 'Right,' says he, 'is moral power: obligation moral necessity. By *moral*, I understood what with a good man prevails as much as if it were physical. A good man is he who loves all men as far as reason allows.'

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BERKELEY.—"This great metaphysician was so little a moralist, that it requires the attraction of his name to excuse its introduction here. His *Theory of Vision* contains a great discovery in mental philosophy. His immaterialism is chiefly valuable as a touchstone of metaphysical sagacity; showing those to be altogether without it, who, like Johnson and Beattie, believed that his speculations were sceptical; that they implied any distrust in the senses, or that they had the smallest tendency to disturb reasoning or alter conduct. Ancient learning, exact science, polished society, modern literature, and the fine arts, contributed to adorn and enrich the mind of this accomplished man. All his contemporaries agreed with the satirist in ascribing

'To Berkeley every virtue under heaven.'

Adverse factions and hostile wits concurred only in loving, admiring, and contributing to advance him. The severe sense of Swift endured his visions; the modest Addison endeavoured to reconcile Clarke to his ambitious speculations. His character converted the satire of Pope into fervid praise. Even the discerning, fastidious, and turbulent Atterbury said, after an interview with him, 'So much

understanding, so much knowledge, so much innocence, and such humility, I did not think had been the portion of any but angels, till I saw this gentleman.' Lord Bathurst told me, that the members of the Scriblerus Club being met at his house at dinner, they agreed to rally Berkeley, who was also his guest, on his scheme at Bermudas; Berkeley, having listened to the many lively things they had to say, begged to be heard in his turn, and displayed his plan with such an astonishing and animating force of eloquence and enthusiasm, that they were struck dumb, and, after some pause, rose all up together, with earnestness exclaiming, 'Let us set out with him immediately.'* It was when thus beloved and celebrated, that he conceived, at the age of forty-five, the design of devoting his life to reclaim and convert the natives of North America; and he employed as much influence and sollicitation as common men do for their most prized objects, in obtaining leave to resign his dignities and revenues, to quit his accomplished and affectionate friends, and to bury himself in what must have seemed an intellectual desert. After four years' residence at Newport in Rhode Island, he was compelled, by the refusal of government to furnish him with funds for his college, to forego his work of heroic, or rather godlike, benevolence; though not without some consoling forethought of the fortune of the country where he had sojourned.

' Westward the course of empire takes its way,
The first four acts already past,
A fifth shall close the drama with the day,
TIME'S NOBLEST OFFSPRING IS ITS LAST.'

" Thus disappointed in his ambition of keeping a school for savage children, at a salary of a hundred pounds by the year, he was received, on his return, with open arms by the philosophical queen, at whose metaphysical parties he made one with Sherlock, who, as well as Smallridge, was his supporter, and with Hoadley who, following Clarke, was his antagonist. By her influence he was made Bishop of Cloyne. It is one of his highest boasts, that though of English extraction, he was a true Irishman, and the first eminent protestant, after the unhappy contest at the Revolution, who avowed his love for all his countrymen. He asked, 'Whether their habitations and furniture were not more sordid than those of the savage Americans? *Whether a scheme for the welfare of this nation should not take in the whole inhabitants?* and *whether it was a vain attempt to project the flourishing of our protestant gentry, exclusive of the bulk of the natives?*' He proceeds to promote the reformation suggested in this pregnant question by a series of queries, intimating, with the utmost skill and address, every reason that proves the necessity, and the safety, and the wisest mode of adopting his suggestion. He contributed, by a truly Christian address to the Roman Catholics of his diocese, to their perfect quiet, during the rebellion of 1745; and soon after published a letter to the clergy of that persuasion, beseeching them to inculcate industry among their flocks, for which he received their thanks. He tells them that it was a saying among the negro slaves, '*If negro were not negro, Irishman would be negro.*' It is difficult to read these proofs of benevolence and foresight without emotion, at the moment when, after a lapse of near a century, his suggestions have been at length, at the close of a struggle of twenty-five years, adopted, by the admission of the whole Irish nation to the privileges of the British constitution. The patriotism of Berkeley was not, like that of Swift, tainted by disappointed ambition; nor was it, like Swift's, confined to a colony of English protestants. Perhaps the *querist* contains more hints, then ori-

* Warton on Pope.

ginal, still unapplied in legislation and political economy, than are to be found in any equal space. From the writings of his advanced years, when he chose a medical tract to be the vehicle of his philosophical reflections, though it cannot be said that he relinquished his early opinions, it is at least apparent that his mind had received a new bent, and was habitually turned from reasoning towards contemplation. His immaterialism, indeed, modestly appears, but only to purify and elevate our thoughts, and to fix them on mind, the paramount and primeval principle of all things. 'Perhaps,' says he, 'the truth about innate ideas may be, that there are properly no ideas or passive objects in the mind but what are derived from sense, but that there are also, besides these, her own acts and operations: such are notions;' a statement which seems once more to admit *general conceptions*, and which might have served, as well as the parallel passage of Leibnitz, as the basis of the modern philosophy of Germany. From these compositions of his old age, he appears then to have recurred with fondness to Plato and the later Platonists; writers, from whose mere reasonings an intellect so acute could hardly hope for an argumentative satisfaction of all its difficulties, and whom he probably rather studied as a means of inuring his mind to objects beyond the visible diurnal sphere, and of attaching it, through frequent meditation, to that perfect and transcendent goodness, to which his moral feelings always pointed, and which they incessantly strove to grasp. His mind, enlarging as it rose, at length receives every theist, however imperfect his belief, to a communion in its philosophical piety. 'Truth,' he beautifully concludes, 'is the cry of all, but the game of a few. Certainly, where it is the chief passion, it does not give way to vulgar cares, nor is it contented with a little ardour in the early time of life; active, perhaps, to pursue, but not so fit to weigh and revise. He that would make a real progress in knowledge, must dedicate his age as well as youth, the later growth as well as first fruits, at the altar of truth.' So did Berkeley, and such were almost his latest words."

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HUME.—"The life of Mr. Hume, written by himself, is remarkable above most, if not all, writings, of that sort, for hitting the degree of interest between coldness and egotism which becomes a modest man in speaking of his private history. Few writers, whose opinions were so obnoxious, have more perfectly escaped every personal imputation. Very few men of so calm a character have been so warmly beloved. That he approached to the character of a perfectly good and wise man is an affectionate exaggeration, for which his friend, Dr. Smith, in the first moments of his sorrow, may well be excused. But such a praise can never be earned without passing through either of the extremes of fortune; without standing the test of temptations, dangers, and sacrifices. It may be said with truth, that the private character of Mr. Hume exhibited all the virtues which a man of reputable station, under a mild government, in the quiet times of a civilised country, has often the opportunity to practise. He showed no want of the qualities which fit men for more severe trials. Though others had warmer affections, no man was a kinder relation, a more unwearied friend, or more free from meanness and malice. His character was so simple, that he did not even affect modesty; but neither his friendships nor his deportment were changed by a fame which filled all Europe. His good nature, his plain manners, and his active kindness, procured him at Paris the enviable name of *the good David*, from a society not so alive to goodness as without reason to place it at the head of the qualities of a celebrated man. His whole character is faithfully and touchingly represented in the story of La Roche, where Mr. Mackenzie, without concealing Mr. Hume's opinions, brings him into contact with scenes of tender piety, and yet preserves the interest inspired by genuine and unalloyed, though moderated, feelings and affections. The amiable

and venerable patriarch of Scottish literature was averse from the opinions of the philosopher on whom he has composed this best panegyric. He tells us that he read the manuscript to Dr. Smith, who declared he did not find a syllable to object to ; but added, with his characteristic absence of mind, that he was surprised he had never heard of the anecdote before. So lively was the delineation, thus sanctioned by the most natural of all testimonies. Mr. Mackenzie indulges his own religious feelings by modestly intimating that Dr. Smith's answer seemed to justify the last words of the tale, 'that there were moments when the philosopher recalled to his mind the venerable figure of the good La Roche, and wished that he had never doubted.' To those who are strangers to the seductions of paradox, to the intoxication of fame, and to the bewitchment of prohibited opinions, it must be unaccountable, that he who revered benevolence should, without apparent regret, cease to see it on the throne of the universe. It is a matter of wonder that his habitual esteem for every fragment and shadow of moral excellence should not lead him to envy those who contemplated its perfection in that living and paternal character which gives it a power over the human heart.

"On the other hand, if we had no experience of the power of opposite opinions in producing irreconcilable animosities, we might have hoped that those who retained such high privileges would have looked with more compassion than dislike on a virtuous man who had lost them. In such cases it is too little remembered that repugnance to hypocrisy, and impatience of long concealment, are the qualities of the best formed minds ; and that, if the publication of some doctrines proves often painful and mischievous, the habitual suppression of opinion is injurious to reason, and very dangerous to sincerity. Practical questions thus arise, so difficult and perplexing, that their determination generally depends on the boldness or timidity of the individual,—on his tenderness for the feeling of the good, or his greater reverence for the free exercise of reason. The time is not yet come when the noble maxim of Plato, 'that every soul is *unwillingly* deprived of truth,' will be practically and heartily applied by man to the honest opponents who differ from them most widely.

"In his twenty-seventh year he published at London the *Treatise of Human Nature*, the first systematic attack on all the principles of knowledge and belief, and the most formidable, if universal scepticism could ever be more than a mere exercise of ingenuity. This memorable work was reviewed in a journal of that time, in a criticism not distinguished by ability, which affects to represent the style of a very clear writer as unintelligible—sometimes from a purpose to insult, but oftener from sheer dulness—which is unaccountably silent respecting the consequences of a sceptical system, and which concludes with a prophecy so much at variance with the general tone of the article, that it would seem to be added by a different hand. 'It bears incontestable marks of a great capacity, of a soaring genius, but young, and not yet thoroughly practised. Time and use may ripen these qualities in the author, and we shall probably have reason to consider this, compared with his later productions, in the same light as we view the juvenile works of Milton, or the first manner of Raphael.'

"The great speculator did not, in this work, amuse himself, like Bayle, with dialectical exercises, which only inspire a disposition towards doubt, by showing in detail the uncertainty of most opinions. He aimed at proving, not that nothing was known, but that nothing could be known, from the structure of the understanding to demonstrate that we are doomed for ever to dwell in absolute and universal ignorance. It is true that such a system of universal scepticism can never be more than an intellectual amusement, an exercise of subtilty ; of which the only use is to check dogmatism, but which perhaps oftener provokes and pro-

duces that much more common evil. As those dictates of experience which regulate conduct must be the objects of belief, all objections which attack them in common with the principles of reasoning must be utterly ineffectual. Whatever attacks every principle of belief can destroy none. As long as the foundations of knowledge are allowed to remain on the same level (be it called certainty or uncertainty) with the maxims of life, the whole system of human conviction must continue undisturbed. When the sceptic boasts of having involved the results of experience and the elements of geometry in the same ruin with the doctrines of religion and the principles of philosophy, he may be answered that no dogmatist ever claimed more than the same degree of certainty for these various convictions and opinions; and that his scepticism, therefore, leaves them in the relative condition in which it found them. No man knew better, or owned more frankly, than Mr. Hume, that to this answer there is no serious reply. Universal scepticism involves a contradiction in terms. *It is a belief that there can be no belief.* It is an attempt of the mind to act without its structure, and by other laws than those to which its nature has subjected its operations. To reason without assenting to the principles on which its reasoning is founded, is not unlike an effort to feel without nerves, or to move without muscles. *No man can be allowed to be an opponent in reasoning who does not set out with admitting all the principles, without the admission of which it is impossible to reason.* It is, indeed, a puerile, nay, in the eye of wisdom, a childish, play, to attempt either to establish or to confute principles by argument, which every step of that argument must pre-suppose. The only difference between the two cases is, that he who tries to prove them can do so only by first taking them for granted; and that he who attempts to impugn them falls at the very first step into a contradiction from which he never can rise."

DUGALD STEWART.—"Manifold are the discouragements rising up at every step in that part of this Dissertation which extends to very recent times. No sooner does the writer escape from the angry disputes of the living, than he may feel his mind clouded by the name of a departed friend. But there are, happily, men whose fame is brightened by free discussion, and to whose memory an appearance of belief that they needed tender treatment would be a grosser injury than it would suffer from a respectable antagonist.

"Dugald Stewart was the son of Dr. Matthew Stewart, Professor of Mathematics in the University of Edinburgh; a station immediately before filled by Maclaurin, on the recommendation of Newton. Hence the poet spoke of 'the philosophic sire and son.' He was educated at Edinburgh, and he heard the lectures of Reid, at Glasgow. He was early associated with his father in the duties of the Mathematical Professorship; and during the absence of Dr. Adam Ferguson as secretary to the Commissioners sent to conclude a peace with North America, he occupied the chair of Natural Philosophy. He was appointed to the Professorship on the resignation of Ferguson, not the least distinguished among the modern moralists inclined to the Stoical School.

"This office, filled in immediate succession by Ferguson, Stewart, and Brown, received a lustre from their names, which it owed in no degree to its modest exterior or its limited advantages; and was rendered by them the highest dignity in the humble but not obscure establishments of Scottish literature. The lectures of Mr. Stewart, for a quarter of a century, rendered it famous through every country where the light of reason was allowed to penetrate. Perhaps few men ever lived who poured into the breasts of youth a more fervid and yet reasonable love of liberty, of truth, and of virtue. How many are still alive in different countries, and in every rank to which education reaches, who, if they accurately

examined their own minds and lives, would not ascribe much of whatever goodness and happiness they possess, to the early impressions of his gentle and persuasive eloquence! He lived to see his disciples distinguished among the lights and ornaments of the council and the senate. He had the consolation to be sure that no words of his promoted the growth of an impure taste, of an exclusive prejudice, of a malevolent passion. Without derogation from his writings, it may be said that his disciples were among his best works. He, indeed, who may justly be said to have cultivated an extent of mind which would otherwise have lain barren, and to have contributed to raise virtuous dispositions where the natural growth might have been useless or noxious, is not less a benefactor of mankind, and may *indirectly* be a larger contributor to knowledge, than the author of great works, or even the discoverer of important truths. The system of conveying scientific instruction to a large audience by lectures, from which the English universities have in a great measure departed, renders his qualities as a lecturer a most important part of his merit in a Scottish university which still adheres to the general method of European education. Probably no modern ever exceeded him in that species of eloquence which springs from sensibility to literary beauty and moral excellence; which neither obscures science by prodigal ornament, nor disturbs the serenity of patient attention; but though it rather calms and soothes the feelings, yet exalts the genius, and insensibly inspires a reasonable enthusiasm for whatever is good and fair."

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"Few writers rise with more grace from a plain ground-work to the passages which require greater animation or embellishment. He gives to narrative, according to the precept of Bacon, the colour of the time, by a selection of happy expressions from original writers. Among the secret arts by which he diffuses elegance over his diction, may be remarked the skill which, by deepening or brightening a shade in a secondary term, by opening partial or preparatory glimpses of a thought to be afterwards unfolded, unobservedly heightens the import of a word, and gives it a new meaning, without any offence against old use. It is in this manner that philosophical originality may be reconciled to purity and stability of speech, that we may avoid new terms, which are the easy resource of the unskilful or the indolent, and often a characteristic mark of writers who love their language too little to feel its peculiar excellencies, or to study the art of calling forth its powers.

"He reminds us not unfrequently of the character given by Cicero to one of his contemporaries, 'who expressed refined and abstruse thought in soft and transparent diction.' His writings are a proof that the mild sentiments have their eloquence as well as the vehement passions. It would be difficult to name works in which so much refined philosophy is joined with so fine a fancy,—so much elegant literature with such a delicate perception of the distinguishing excellencies of great writers, and with an estimate in general so just of the services rendered to knowledge by a succession of philosophers. They are pervaded by a philosophical benevolence, which keeps up the ardour of his genius, without disturbing the serenity of his mind, which is felt in his reverence for knowledge, in the generosity of his praise, and in the tenderness of his censure. It is still more sensible in the general tone with which he relates the successful progress of the human understanding among many formidable enemies. Those readers are not to be envied who limit their admiration to particular parts, or to excellences merely literary, without being warmed by the glow of that honest triumph in the advancement of knowledge, and of that assured faith in the final prevalence of truth and justice,

which breathe through every page of them, and give the unity and dignity of a moral purpose to the whole of these classical works."

"He has often quoted poetical passages, of which some throw much light on our mental operations. If he sometimes prized the moral common-places of Thomson, and the speculative fancy of Akenside, more highly than the higher poetry of their betters, it was not to be wondered at that the metaphysician and the moralist should sometimes prevail over the lover of poetry. This natural sensibility was perhaps occasionally cramped by the cold criticism of an unpoetical age; and some of his remarks may be thought to indicate a more constant and exclusive regard to diction than is agreeable to the men of a generation who have been trained by tremendous events to a passion for daring inventions, and to an irregular enthusiasm, impatient of minute elegancies and refinement. Many of those beauties which his generous criticism delighted to magnify in the works of his contemporaries have already faded under the scorching rays of a fiercer sun."

JEREMY BENTHAM.—"The general scheme of this dissertation would be a sufficient reason for omitting the name of a living writer. The devoted attachment and invincible repugnance which an impartial estimate of Mr. Bentham has to encounter on either side, are a strong inducement not to deviate from that scheme in his case. But the most brief sketch of ethical controversy in England would be imperfect without it; and perhaps the utter hopelessness of any expedient for satisfying his followers, or softening his opponents, may enable a writer to look steadily and solely at what he believes to be the dictates of truth and justice. He who has spoken of former philosophers with unreserved freedom, ought, perhaps, to subject his courage and honesty to the severest test, by an attempt to characterise such a contemporary. Should the very few who are at once enlightened and unbiassed be of opinion that his firmness and equity have stood this trial, they will be the more disposed to trust his fairness where the exercise of that quality is more easy.

"The disciples of Mr. Bentham are more like the hearers of an Athenian philosopher than the pupils of a modern professor, or the cool proselytes of a modern writer. They are in general men of competent age, of superior understanding, who voluntarily embrace the laborious study of useful and noble sciences; who derive their opinions not so much from the cold perusal of his writings, as from familiar converse with a master from whose lips these opinions are recommended by simplicity, disinterestedness, originality, and vivacity; aided rather than impeded by foibles not unamiable, enforced of late by the growing authority of years and of fame, and at all times strengthened by that undoubting reliance on his own judgment, which mightily increases the ascendant of such a man over those who approach him. As he and they deserve the credit of leaving vulgar prejudices, so they must be content to incur the imputation of falling into the neighbouring vices of seeking distinction by singularity; of clinging to opinions because they are obnoxious; of wantonly wounding the most respectable feelings of mankind; of regarding an immense display of method and nomenclature as a sure token of a corresponding increase of knowledge; and of considering themselves as a chosen few, whom an initiation into the most secret mysteries of philosophy entitles to look down with pity, if not contempt, on the profane multitude. Viewed with aversion or dread by the public, they become more bound to each other and to their master; while they are provoked into the use of language which more and more exasperates opposition to them. A hermit in the greatest of cities, seeing only his disciples, and indignant that systems of government and law which he believes to be perfect are disregarded

at once by the many and the powerful, Mr. Bentham has at length been betrayed into the most unphilosophical hypothesis, that all the ruling bodies who guide the community have conspired to stifle and defeat his discoveries. He is too little acquainted with doubts to believe the honest doubts of others, and he is too angry to make allowance for their prejudices and habits. He has embraced the most extreme party in practical politics; manifesting more dislike and contempt towards those who are more moderate supporters of popular principles, than towards their most inflexible opponents. To the unpopularity of his philosophical and political doctrines he has added the more general and lasting obloquy which arises from an unseemly treatment of doctrines and principles which, if there were no other motives for reverential deference, even a regard to the feelings of the best men requires to be approached with decorum and respect."

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"The style of Mr. Bentham underwent a more remarkable revolution than perhaps befell that of any other celebrated writer. In his early works, it was clear, free, spirited, often and seasonably eloquent. Many passages of his later writings retain the inimitable stamp of genius; but he seems to have been oppressed by the vastness of his projected works,—to have thought that he had no longer more than leisure to preserve the heads of them,—to have been impelled by a fruitful mind to new plans before he had completed the old. In this state of things, he gradually ceased to use words for conveying his thoughts to others, but merely employed them as a short-hand to preserve his meaning for his own purpose. It was no wonder that his language should thus become obscure and repulsive. Though many of his technical terms are in themselves exact and pithy, yet the overflow of his vast nomenclature was enough to darken his whole diction."

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This work has been praised by persons the most conversant with mental and moral philosophy. It may be said that there is some want of dominant purpose and pervading order,—that the opinions of writers in the process of time and controversy are passed in review without a pervading methodical record of their respective approaches, deviations, or advances in their pursuit of truth and science. A person of more dogmatism or decision in his opinions would doubtless escape this censure. He would refer to his own sect or system as the standard at every step. Sir James Mackintosh, impartial, indifferent, and judicial in his temper and views, had the advantage of not being biassed—the disadvantage, perhaps of not being guided—by any such standard. A note by Sir James, nearly at its close (due regard being had to the moderation with which he speaks of himself), will give the best idea of him as an enquirer after speculative truth:—

"To Mr. Coleridge, who distrusts his own power of building a bridge by which his ideas may pass into a mind so differently trained as mine, I venture to suggest, with that sense of his genius which no circumstance has hindered me from seizing every fit occasion to manifest, that more of my early years were employed in con-

temptations of an abstract nature than of those of the majority of his readers ; that there are not even now many of them less likely to be repelled from doctrines by singularity or uncouthness ; more willing to allow that every system has caught an advantageous glimpse of some side or corner of the truth ; more desirous of exhibiting this dispersion of the fragments of wisdom, by attempts to translate the doctrine of one school into the language of another,—who, when he cannot discover a reason for an opinion, considers it as important to discover the causes of its adoption by the philosopher ; believing, in the most unfavourable cases, that one of the most arduous and useful researches of mental philosophy is to explore the subtle illusions which enable great minds to satisfy themselves by mere words, before they deceive others by payment in the same counterfeit coin. These habits, together with the natural influence of my age and avocations, lead me to suspect that in speculative philosophy I am nearer to indifference than to an exclusive spirit. I hope that it can neither be thought presumptuous nor offensive in me to doubt, whether the circumstances of its being found difficult to convey a metaphysical doctrine to a person who, at one part of his life, made such studies his chief pursuit, may not imply either error in the opinion, or defect in the mode of communication.”

His memoir of Sir Thomas More is an episode from the reign of Henry VIII., expanded into one of the most pleasing pieces of biography in the English language. Those who have not read it cannot truly appreciate that amiable philosopher—the Socrates of Christianity in a barbarous age. A mistaken notion seems to prevail respecting his History of England in the Cabinet Cyclopædia : it is regarded as a compendium. The close type, and compact form of publication, disguise the copious and elaborate variety of research and observation which those volumes contain. Sir James himself encouraged the opinion. In the advertisement to the first volume, he says,—

“The object at which I have aimed is to lay before the reader a summary of the most memorable events in English history, in regular succession, together with an exposition of the nature and progress of our political institutions clear enough for educated and thinking men, with as little reasoning or reflection as the latter part of the object to which I have just adverted will allow, and with no more than that occasional particularity which may be needed to characterise an age or nation ; to lay open the workings of the minds who have guided those of their fellow-men, and, most of all, to strengthen the moral sentiments by the exercise of them on the personages conspicuous in history.”

If this was his aim, he executed much more than he designed. The simple truth is, that he could not, however disposed, produce an abridgment. It was a distinctive trait of his mind, that he could not control the effusion of his reading and reflections. It is unnecessary to notice particularly a work so well known. The reign and character of the Conqueror ; the time, the troubles, and the

character of Becket; the epoch, the achievements, and the atrocities of Henry VIII., are pieces of historic composition very seldom equalled in the English language. A few brief extracts may be advisable, in illustration of this opinion. The following passages are taken from his characters of William the Conqueror, Henry VII., and Henry VIII. : —

WILLIAM THE CONQUEROR.—“It cannot be doubted that William surpassed all his contemporary rulers in a capacity for command, in war certainly, and probably also in peace. Sagacity, circumspection, foresight, courage, both in forming plans and facing dangers, insight into character, ascendant over men’s minds; all these qualities he doubtless possessed in a very high degree. All that can be said in extenuation of his perfidy and cruelty is, that he did not so far exceed chiefs of that age in these detestable qualities as he unquestionably surpassed them in ability and vigour. It may be added, that if he had lived in a better age, when his competitors, as well as himself, would have been subject to equal restraints, he would have retained his superiority over them by the force of his mental powers and endowments. It is also true, that contests with lawless and barbarous enemies, to which a man is stimulated by fierce and burning ambition, are the most severe tests of human conduct. The root of the evil is the liability of the mind to that intractable and irresistible frenzy.”—

“Two legal revolutions, of very unequal importance and magnitude, occurred or were completed in the reign of the Conqueror : the separation of the ecclesiastical from the civil judicature, and the introduction, or consummation, of the feudal system. Justice was chiefly administered among the Anglo-Saxons in the county, or rather hundred courts, of which the bishop and alderman, or earl, were joint judges ; and where the thanes were bound to do suit and service, probably to countenance the judgment and strengthen the authority of the court. The most commendable part of William’s policy was his conduct to the Pope ; towards whom he acted with gratitude, but with independence. He enforced the ecclesiastical laws against simony and the concubinage of the clergy. He restored, as we have seen, the donation of Peter’s pence ; but he rejected, with some indignation, the demand of homage made by Hildebrand (Gregory VII.), then elated with the impunity and acquiescence which seemed to attend his pretensions to domineer over sovereigns. He seems to have introduced the frequent practice of appeals to Rome in ecclesiastical causes ; without which, indeed, the patriarchal jurisdiction of the Roman see was useless. But he separated the ecclesiastical jurisdiction from the civil, by forbidding bishops to hold pleas in county or hundred courts ; and limited their power to causes of a spiritual nature in their own tribunals. The language of this writing, and probably its immediate effect, were favourable to clerical independence. Its ultimate tendency, however, was to set free the civil judge from the ascendancy of the more learned ecclesiastic, and to place the inferiority of a spiritual court in a more conspicuous light, by rendering it dependent for coercive authority in every instance on an appeal to the secular arm. It seems to be probable, that without such a change the bishop must have at last wholly governed the earl, and the spiritual power would have been deemed as much entitled to a coercive authority as the civil power must needs be.

“It is certain that the system of government and landed property, commonly known throughout Europe as the feudal system, subsisted in England from the reign of the Conqueror. It is now as clearly established, that this system did not arise

on the first conquest of the western empire. It is improbable that so peculiar a system should have been suddenly and completely introduced into a country. Yet there were many circumstances attendant on the Norman invasion which soften the unlikelihood even of such an introduction. The most reasonable supposition, therefore, seems to be, that it was gradually prepared in the Anglo-Saxon times, and finished by the Norman invaders."

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HENRY VII.—“ Henry, who had enjoyed sound health during his life, was, at the age of fifty-two, attacked by a consumption, which, early in his distemper, he deemed likely to prove fatal. He died on the 22d day of April, 1509, in the twenty-fourth year of a troublesome but prosperous reign, in his palace at Richmond, which he had himself built. He was interred in that beautiful chapel at Westminster which bears his name, and which is a noble monument of the architectural genius of his age. He was pacific, though valiant; and magnificent in public works, though penurious to an unkingly excess in ordinary expenditure. The commendation bestowed on him, that ‘ he was not cruel when secure,’ cannot be justified otherwise than as the general colour of his character, nor without exceptions, which would allow a dangerous latitude to the care of personal safety. His sagacity and fortitude were conspicuous, but his penetrating mind was narrow; and in his wary temper firmness did not approach the borders of magnanimity. Though skilled in arms, he had no spirit of enterprise.

“ No generosity lent lustre to his purposes; no tenderness softened his rigid nature. We hear nothing of any appearance of affection, but that towards his mother which it would be unnatural to treat as deserving praise, and which in him savoured more of austere duty than of an easy, delightful, and almost universal sentiment. His good qualities were useful, but low: his vices were mean; and no personage in history of so much understanding and courage is so near being despised. He was a man of shrewd discernment, but of a mean spirit, and a contracted mind. His love of peace, if it had flowed from a purer source, would justly merit the highest praise, as one of the most important virtues of a ruler; but in Henry it is deeply tinged by the mere preference of craft to force, which characterises his whole policy. In a word, he had no dispositions for which he could be admired or loved as a man. But he was not without some of the most essential of those qualities which preserve a ruler from contempt, and, in general, best secure him against peril: activity, perseverance, foresight, vigilance, boldness both martial and civil, conjoined with a wariness seldom blended with the more active qualities, eminently distinguished his unamiable but commanding character.

“ His religion, as far as we are informed, never calmed an angry passion, nor withheld him from a profitable wrong. He seems to have shown it chiefly in the superstitious fears which haunted his death-bed, when he made a feeble attempt to make amends for irreparable rapine by restoring what he could no longer enjoy, and struggled to hurry through the formalities of a compromise with the justice of Heaven for his misdeeds.” —

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HENRY VIII.—“ Henry alone, it may be hoped, was capable of commanding his slaves to murder, on the scaffold, her whom he had lately cherished and adored, for whom he had braved the opinion of Europe, and in maintenance of whose honour he had spilt the purest blood of England, after she had produced one child who could lisp his name with tenderness, and when she was recovering from the languor and paleness of the unrequited pangs of a more sorrowful and fruitless childbirth. The last circumstance, which would have melted most beings in human form, is said to have peculiarly heightened his aversion. Such a deed is hardly

capable of being aggravated by the considerations that, if she was seduced before marriage, he had corrupted her; and if she was unfaithful at last, the edge of the sword that smote her was sharpened by his impatience to make her bed empty for another woman. In a word, it may be truly said that Henry, as if he had intended to levy war against every various sort of natural virtue, proclaimed, by the executions of More and of Anne, that he henceforward bade defiance to compassion, affection, and veneration. A man without a good quality would, perhaps, be in the condition of a monster in the physical world, where distortion and deformity in every organ seem to be incompatible with life. But, in these two direful deeds, Henry, perhaps, approached as nearly to the ideal standard of perfect wickedness as the infirmities of human nature will allow."

The death of David Rizzio may be added :—

"The Earl of Lennox was indignant that the influence of his son should be eclipsed by the favour of Rizzio. Darnley himself betrayed symptoms of being goaded by passions more clamorous and rancorous than political jealousy. Lennox advised him to sacrifice his antipathies, and to seek the means of revenge in a coalition with the Protestant lords. Darnley, accordingly, on the 10th of February, sent Douglas, his uncle, to Lord Ruthven, to complain that Rizzio had abused the King in many sorts, and done him wrongs which could no longer be borne. Ruthven, fearful that the blandishments of the Queen might extort secrets from her simpleton husband, refused to answer. 'It is a sore case,' said Darnley, 'that I can get no help against this villain David.'—'It is your own fault,' replied Douglas; 'you cannot keep a secret.' Then the King swore on the Gospel that he would not betray Ruthven."

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"Darnley conducted Ruthven and other assassins through his private staircase, by the use of his own key, into a small room where the Queen was at supper with Rizzio, her natural sister, the Countess of Argyle, and some other favourites. Ruthven rose from a sick bed, to which he had been for three months confined by a painful, and, as it proved, a mortal illness. He was now in armour; though he could only come into the apartment by the support of two men. The paleness of his haggard countenance, sometimes flushed by guilty passions, formed a gloomy contrast with the glare of his helmet. Rizzio had his cap on his head as Ruthven entered; and Darnley hung on the Queen's chair with his hand round her waist. That unhappy lady was in the sixth month of her pregnancy by her contemptible husband. Ruthven called to her,—'Let Rizzio leave this privy chamber, where he has been too long.'—'It is my will he should be here,' said the Queen.—'It is against your honour,' answered Darnley.—'What hath he done?' said the Queen. 'He hath offended your honour,' replied Ruthven, 'in such a manner as I dare not speak of.' The Queen rose up; and David ran behind her, laying hold of the plaits of her gown. Ruthven lifted up the Queen, and placed her in the arms of Darnley, who disengaged Rizzio's hands from the hold which he had taken of her garments. Several persons here rushed in, and overset the table with the supper and lights. Rizzio was pushed out to the antechamber, at the front of which he fell under fifty-five wounds, in one of which Darnley's dagger was found, whether employed by himself or one of his accomplices is neither certain nor important. Ruthven is said to have aimed a stab at the victim over the Queen's head. He seated himself, and called for a cup of wine, which drew a spirited reproof of his familiarity from Mary. He appealed to his illness as an excuse. Though worked up by the

contemplation of a crime into a ruffianly paroxysm of distempered vigour, he speedily relapsed into the feebleness incident to his malady. He expired about two months afterwards. He left behind him a narrative of his crime, written in a tone of undisturbed impartiality; and it does not appear that his last moments betrayed a glimpse of natural compunction.

“During the tumult, the Queen remained for a long time in the closet, interceding for her favourite, who was, probably, then dead. She asked her husband how he could be the author of so foul an act. The recrimination was too coarse for historical relation. ‘It was,’ he said, ‘as much for your honour as for my own satisfaction.’ * * * * * After this offensive conversation she sent one of her ladies to learn the fate of Rizzio. The lady quickly returned with tidings that she had seen him dead. The Queen, with a spirit that never forsook her, said, ‘No more tears; I must think of revenge.’ She wiped her eyes, and was never seen to lament the murdered man.”

This narrative has a merit which Sir James rarely attained or studied. It is dramatic and picturesque. The subject had already been treated by Sir Walter Scott, in his *History of Scotland*, published in the *Cabinet Cyclopædia*. Sir James, doubtless, was animated by rivalry. A comparison of the respective passages will hardly leave a doubt that he proved himself, for once, superior in his own domain to that great master of the scenic and graphic in character and situation.

The literary career of Sir James Mackintosh may be closed here. Among the distinctions conferred upon him as a man of letters was the honorary degree of LL.D. by the University of Oxford. It is, perhaps, an anti-climax to add, that he was twice elected Lord Rector of the University of Glasgow.

Lord Grey and the Whigs came into office in November, 1830, and Sir James Mackintosh, already a Privy Counsellor, was appointed a Commissioner for the Affairs of India. He still took but little part in the proceedings of Parliament. His first speech since his appointment to office was in support of the second reading of the Reform Bill, on the 4th of July, 1831.

Sir James Mackintosh now returned, or was borne back, to the principles of the *Vindiciæ Gallicæ*, and of his youth, after forty years' renunciation of them. It was understood, that he relapsed into his early creed, not from experience, conviction, the force of popular opinion, or the spirit of the time, but from being bound in the wake of the administration. This is not improbable. It is not in the decline of life that men enlarge the views of popular privilege, and catch the fearless spirit of democracy; and opinions once entertained and renounced are regarded ever after with

something like disgust. The Prime Minister, it may be said, returned unforced, in his advanced age, to the principles of his youth. But it is doubted whether even he, with the force, decision, and fearlessness of his character, would have hazarded the Reform Bill without the influence and impulse of a younger member of his cabinet and his family. The speech of Sir James Mackintosh was one of the ablest spoken on either side of the question in the House of Commons; it yet failed to excite or impress the House—and from, among other causes, its superior ability. No question was ever discussed in Parliament with so little frankness. There was an under-current of motives, which could not be avowed on either side. Clever turns, allusions *ad captandum*, party hits, and personalities were, on this occasion, the great staple of oratory. The speech of Sir James Mackintosh was not of that kind; it was distinguished by the eloquence of knowledge, reason, and philosophy: it was not a speech to make the boroughmongers wince, or flatter the reform ministry. Moreover, he was not the champion of a principle, embarked with all his force and ardour of his faculties and feelings in a cause; he spoke rather like a sage counsellor, urging concession to a claimant become at last too importunate and powerful to be denied. The following extracts will give an idea of a speech, interesting not only from the capacity with which it treats a subject of the highest importance, but as that which closed the career of one of the few who have reached the eloquence of Parliament, properly so called, in his time. It has the further advantage of having been revised, if not written, by him for the press:—

“The test which distinguishes property from trust is simple and easily applied. Property exists for the benefit of the proprietor; political power exists only for the service of the state. Property is, indeed, the most useful of all human institutions. It is so, because the power of every man to do what he will with his own is beneficial and essential to human society. A trustee is legally answerable for the abuse of his power; a proprietor is not amenable to law for any misuse of his property, unless it should involve a direct violation of the rights of other men. It is for this violation only, not at all the misuse of his proprietary right, considered merely as such, that he can be justly answerable to human laws. It is true that every man is answerable to God and his own conscience for a bad use of property. It may be immoral in the highest degree. But the existence of property would be destroyed if any human authority could control the master in his disposal of that which the law has subjected to his exclusive power. It is said, that property is trust; and so it may, in figurative language, be called. It is a moral trust, but not a legal trust. In the present argument we have to deal only with legal trusts. The confusion of trust with property misled the Stuarts so far that they thought the kingdom their property. They were undeceived by the Revolution, which taught us, that no man

can have a property in other men. It has, therefore, decided the question before us. Every voter has, by the force of the term, a share in the nomination of law-givers. He has, thus far, a part in the government; and all government is a trust. Otherwise, if the voter, as such, were a proprietor, he must have a property in his fellow-citizens, who are governed by laws of which he has a share in naming the makers. I have only to add, on this subject, that if the doctrine of property be admitted, all reform is for ever precluded. Even the enfranchisement of new boroughs or districts must be renounced, for every addition diminishes the value of the previous suffrage; and it is no more lawful to lessen the value of property than to take property from the proprietor. Unless I am grossly deceived, there never was a more groundless cry than that of corporation robbery. Of all doctrines which threaten the principle of property, none more dangerous was ever promulgated than that which confounds it with political privilege. None of the disciples of St. Simon, or of the followers of the ingenious and benevolent Owen, have struck so deadly a blow at property as those who would reduce it to the level of the elective rights of Gatton and Old Sarum. Property, the nourisher of mankind, the incentive of industry, the cement of human society, will be in a perilous condition if the people be taught to identify it with political abuses, and to deal with it as being involved in their impending fate. Let us not teach the spoilers of future times to represent the resumption of a right of suffrage as a precedent for the seizure of lands and possessions. The two acts have nothing in common. It is as full of danger as it is of absurdity, to confound such distinct, and, in many respects, contrary notions. They cannot be likened to each other with any show of reason, and without the utmost derogation from the sanctity of property. Much is said in praise of nomination, which is now called 'the most unexceptionable part of our representation.' To nomination, it seems, we owe the talents of our young members; the prudence and experience of the more aged. It supplies the colonies and dependencies of this great empire with virtual representation in this House. By it, commercial and funded property finds skilful advocates and intrepid defenders. The whole of these happy consequences is ascribed to that gross and flagrant system of breaches of law, which are now called the practice of the English constitution. I never had, and have not now, any objection to the admission of representatives for the colonies into this House on fair and just conditions. I cannot conceive that a bill which is objectionable, as raising the commercial interest at the expense of the landed, will also lessen the safeguards of their property. Considering the well-known and most remarkable subdivision of funded income (the most minutely divided of any mass of property), I do not believe that any representatives, or even any constituents, could be ultimately disposed to do themselves so great an injury as to invade it. The chain which connects together all classes of the community is sufficient to lead men at once respectable and opulent into this House. Men of genius, and men of experience, have found their way into this House through nomination, or through worse means, through any channel that was open. The same classes of candidates will direct their ambition and their efforts to the channels opened by the present bill; they will soon attain their end by varying their means. A list has been read to us of illustrious men who found an introduction to Parliament, or a refuge from an unmerited loss of popularity, in decayed boroughs. What does such a catalogue prove, but that England, for the last sixty years, has been a country full of ability, of knowledge, of intellectual activity, of honourable ambition, and that a large portion of these qualities has flowed into the House of Commons? Might not the same dazzling common-places have been opposed to the abolition of the court of Star Chamber? 'What!' it might have said, 'will you, in your frantic rage of innovation, demolish the tribunal in which Sir Thomas More, the best of men, and Lord Bacon,

the greatest of philosophers, presided ; where Sir Edward Coke, the oracle of law ; where Burleigh and Walsingham, the most revered of English statesmen, sat as judges ; which Bacon, enlightened by philosophy and experience, called the peculiar glory of our legislation, which, alone, had established “ a Court of Criminal Equity ? ” Will you, in your paroxysms of audacious frenzy, abolish this prætorian tribunal, this sole instrument for bridling popular incendiaries ? Will you dare to persevere in your wild purpose, at a moment when Scotland is agitated by a rebellious league and covenant ; when Ireland is threatened with insurrection and massacre ? Will you surrender the shield of the crown, the only formidable arm of prerogative, at a time when his Majesty’s authority is openly defied in the capital where we are assembled ? I cannot, indeed, recollect a single instance in that long course of reformation, which constitutes the history of the English constitution, where the same plausible arguments, and the same exciting topics, might not have been employed against the reform, which are now pointed against the present measure.”

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“ But it appears to be taken for granted that concession to a people is always more dangerous to public quiet than resistance. Is there any pretence for such a doctrine ? Does it receive any support from the testimony of history ? I appeal to history as a vast magazine of facts, leading to the very opposite conclusion ; of facts, which teach that this fatal principle has overthrown thrones and dismembered empires ; proving that late reformation, dilatory reformation, reformation refused at the critical moment, which may pass for ever in the twinkling of an eye, has been the most frequent cause of the convulsions which have shaken states, and for a time burst asunder the bonds of society ; sometimes laying open a ground on which liberty may be built, but sometimes also preparing a community for taking refuge in a sterner despotism than that from which they escaped. Allow me very briefly to advert to the earliest revolution of modern times. Was it by concession that Philip II. lost the Netherlands ? Had he granted timely and equitable concessions, had he not plotted the destruction of the ancient privileges of these flourishing provinces, under pretence that all popular privilege was repugnant to just authority, would he not have continued the master of that fair and affluent portion of Europe ? Did Charles I. lose his throne and his life by concession ? Is it not notorious, that if, before losing the confidence of the Parliament and people (after that loss all his expedients of policy were vain, as in such a case all policy is unavailing), he had adhered to the petition of right, to which he gave his royal assent ; if he had forborne from the prosecution of the Puritans ; if he had refrained from levying money without a grant from Parliament ; he would, in all human probability, have reigned prosperously to the last day of his life ? If there be any man who doubts it, his doubts will be easily removed without pursuing his studies farther than the first volume of Lord Clarendon’s history. Did the British parliament lose North America by concession ? Is not the loss of that great empire solely to be ascribed to the obstinate resistance of this House to every conciliatory proposition, then supported by their own greatest men, and humbly tendered in the loyal petitions of the colonies, until America was driven into the arms of France, and the door was for ever closed against all hopes of re-union ? Had we yielded to the latest prayer of the Americans, it is hard to say how long the two British nations might have held together ; the separation, if absolutely necessary, might have been effected on quiet and friendly terms. Whatever may be thought of recent events, of which it is yet too early to form a final judgment, the history of their origin and progress would of itself be enough to show the wisdom of those early reformations, which, as Mr. Burke says, ‘ are accommodations with a friend in power,’ and corroborates the general testimony of experience, that nations have

more frequently owed their fall to obstinacy, than to a facility of yielding. I feel some curiosity to know how many of the principled, consistent, inflexible, and hitherto unyielding opponents of the bill will continue to refuse to make a declaration in favour of any reform, till the last moment of this discussion. Although I differ from them very widely in opinion, I know how to estimate their fidelity towards each other, their general fairness to others, their steadiness and firmness under circumstances of a discouraging and disheartening nature, calculated to sow distrust and disunion in a political party. What I dread and deprecate in their system is, that they offer no option but reform or coercion. Let any man seriously consider what is the full import of this last tremendous word; restrictions will be first laid on the people, which will be assuredly productive of new discontents, provoking an incensed government to measures still more rigorous. Discontent will rankle into disaffection, disaffection will break out into revolt, which supposing the most favourable termination, will not be quelled without spilling the blood of our countrymen; and at last leaving them full of hatred for their rulers, and watching for the favourable opportunity of renewing their attack. It is needless to consider the consequences of a still more disastrous and irreparable termination of the contest. It is enough for me to say that the long continuance of such wretched scuffles between the government and the people is absolutely incompatible with the English constitution. The constitution may perish in spite of reform: but it cannot stand under a succession of such cruel conflicts. Those who offer me this option would reduce me to the necessity of embracing reform, even if I thought worse of its probable effects than I think it reasonable to do; I wish gentlemen to consider that there is nothing certain in such contests but their course of blood. Darkness hangs over the event. Is there nothing in the temper, in the opinions, in the circumstances of all European nations, which renders the success of popular principles probable? Inaction may be at such a crisis the most dangerous policy; and surely a bold measure is peculiarly warrantable where the policy of leaving events to themselves seems to be fraught with peril."

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"Of a distant futurity I know nothing; and I am, therefore, altogether unfitted to make laws for it. Posterity may rightly measure their own wants, and their capacity—we cannot; the utmost that we can aspire to is to remove elements of discord from their path. But within the very limited horizon to which the view of politicians can reach, I have already offered some reasons why I expect that a measure of concession, made in a spirit of unsuspecting confidence, may inspire the like sentiments; and I believe that the majority of the people may acquiesce in a grant of privileges so extensive, that every man may hope to earn it, given to a constituent body, who must always agree with the obvious and palpable interest, the decisive judgment, and the warm desire of the whole. After all, is it not obvious that the people already possess that power from their numbers, of which the exercise is dreaded? It is ours, indeed, to decide whether they are to exert their force in the market-place, in the street, in the field, or in discussion and debate in this House. If we somewhat increase their legal privileges, we must also, in some measure, abate their supposed disposition to use it ill. Their exasperation out of doors appears to me more dangerous than their influence within. Here they may examine questions with a calm eye; and many of them will surely not be unwilling to listen to reason. To predict such danger from the admission within the pale of the constitution now proposed is, in truth, an avowal that the situation of this country is desperate. On the great proprietors, much of the grace, of the generous character, of the conciliatory effects of this measure, must certainly depend. But it cannot ultimately depend upon a single class, whether

such a bill shall pass. If they be deluded and inflamed by tales of intimidation and of riot; if they are so much misled as to doubt whether, if the fullest allowance were made for all that can be ascribed to these causes, it would amount to a visible deduction from the national unanimity; if they do not perceive that there is no more dissent from the national doctrine than is necessary to show the liberty of publishing opinion—whenever or wherever they act on these great errors they may abate the healing efficacy of a great share of conciliation and improvement; but they cannot prevent its final adoption. Above all other considerations I should dare to advise these great proprietors to cast from them those reasonings which would involve property in the approaching downfall of political abuse. If they assent to the doctrine that political privilege is property, they must be prepared for the inevitable consequence that it is no more unlawful to violate property than to resume a delegated trust. The suppression of dependent boroughs is at hand. It will be the truest wisdom of the great proprietors, the natural guardians of the principle of property, to maintain, to inculcate, to enforce the essential distinction between it and political trust, if they be desirous not to arm the spoilers whom they dread with arguments which they can never consistently answer."

The fate of the first Reform Bill is well known. When the measure was reproduced, Sir James spoke only on the bill for Scotland. Some observations upon it in committee, on the 4th of October, were the last made by him in the House of Commons.

His time was now divided between the business of the India Board and the composition of his History of England. The state of his health was delicate and uncertain during the winter of 1831-2. The proximate cause, however, of his last illness was accidental. About the middle of March he experienced at dinner a sudden difficulty of deglutition and respiration. A morsel of the flesh of a boiled chicken which he was eating was supposed to remain in his throat. Upon the calling in of surgical aid, it was pronounced that this obstruction did not exist, and he continued in the same suffering state for some days. After further consultation, an emetic was prescribed, and the obstruction, consisting of a morsel of the chicken, with a small portion of thin bone, was removed. This accident wholly deranged his health, already delicate. It was caused probably, in the first instance, by the want of muscular tone. His condition, however, so far improved as to allow of his taking carriage airings. Presuming too much upon his returning health, he, in one instance, remained out too long, and his state became worse. His debility increased, with pains in the head and limbs. These pains gave way to brain fever and delirium. His condition became hopeless. He fell into a state of insensibility, which continued to his death on the 30th of May.

The death of Sir James Mackintosh was the subject of deep and universal regret. In literature, in politics, and in social life, he was one of the leading intelligences of his country. Though of advanced age, much was still expected from him, and his career seemed prematurely closed. He assuredly deserved his high reputation, but yet the world or the public has rarely been so liberal. He was estimated by what he promised, rather than by what he achieved. Constitutionally indolent, and condemned to pass, under a distant enervating sun, seven years of that precious stage of life and intellect which combines vigorous manhood with mature experience, he has left only sketches and fragments to sustain the pretensions of a first-rate publicist, philosopher, critic, and historian. As a living interpreter and authority in questions of public law, which were so frequently raised after the fall of the French empire, Gentz alone disputed with him the first place in European opinion. That writer soon became the hireling gazetteer of despotism, dwindled into an aulic counsellor at Vienna, and left his rival an undisputed supremacy. What remains of Sir James Mackintosh, as a jurist, to justify his contemporaries to posterity? His Introductory Discourse, the opinions and principles delivered by him in Parliament, and a note in the third volume of his History of England. The Introductory Discourse is a comprehensive and able sketch,—a splendid promise,—but still no more than a promise and a sketch. Of his parliamentary speeches on matters involving the public law of Europe, but one may be regarded as an authentic publication,—that which he spoke on presenting the London petition for the recognition of the South American States. It was published by himself. But in this and his other speeches he rather cites and relies on received authorities, than promulgates any original opinion or principle of his own. He has left, at least in print, no systematic treatise; and the most diligent and discerning student of his speeches would find it difficult to extract and embody from them a consistent and uniform compendium of public law. Yet the applications of the public law of Europe, and of the opinions of standard jurists in his speeches, are, perhaps, more interesting and effective than they are in the pages from which he cites, or they would be in an abstract treatise by himself. They are brought to bear upon current history at a remarkable period, with the aids and legitimate artifices of oratory in defence of the independence and liberty of nations, the security of the weak against the strong, the rights of the

oppressed against the oppressor. But, after all, of what avail are the most eloquent and conclusive pleadings on a matter of public right in a state paper or a speech? In disputed constructions of the law of nations armies are the interpreters, and the fortune of war decides.

He has left but two cases of adjudication on his own authority: those of Mary Queen of Scots, and Napoleon, in the following note,* to which reference has been already made:—

“About 250 years after Mary had crossed the Solway, another case of exception from ordinary rules arose in England, opposite to hers in moral circumstances, yet resembling it in the dry skeleton of legal theory.

“Napoleon Bonaparte, probably the most extraordinary man who has appeared in the world since Julius Cæsar, whom he surpassed in genius for war as much as he and all other warriors must yield to the great dictator in the arts and attainments of peace, having raised himself to the sovereignty of Europe by his commanding faculties, when he was hurled from that eminence by his insolent contempt for mankind, sought for refuge in the ships and territories of the only nation who had successfully defied his power. When he applied with that view to the commander of a British ship of war, he was answered, as Mary had been by the governor of Carlisle, that an officer had no authority to promise more than an hospitable reception in his own ship. The course of events obliged Mary to rush into shelter before the answer of Mr. Lowther arrived. Napoleon was compelled to take refuge in the ship, before any answer could be obtained from a competent authority. Both affected to act voluntarily, though they were alike driven by necessity to the first open asylum. Neither of them was born an English subject, nor had committed any offence within the jurisdiction of England; consequently, neither of them was amenable to English law. Neither of them could be justly considered as at war with England; though on that part of the subject, some technical but unsubstantial obstacles might be opposed to Napoleon, which could not be urged against Mary. The imprisonment of neither was conformable to the law of England or the law of nations. But the liberty of Mary was deemed to be at variance with the safety of the English government, as the enlargement of Napoleon was thought to be with the independence of nations, and with the repose for which Europe sighed after a long bloodshed. The imprisonment, though in neither case warranted by the rules of municipal or international law, was in both justified by that necessity from which these rules have sprung, and without which no violence can rightfully be done to a human being.

“Agreeably to this view of the matter, the detention of Napoleon was legalised by an act of the British Parliament. By the bare passing of such act, it was tacitly assumed, that the antecedent detention was without warrant of law. This evident truth is more fully admitted by the language of the statute, which, in assigning the reason for passing it, alleges, that ‘it is necessary for the preservation of the tranquillity of Europe, and for the general safety, that Napoleon Bonaparte should be detained and kept in custody;’ and it is still more explicitly declared, by a specific enactment which pronounces, that he ‘shall be deemed and taken to be, and shall be treated and dealt with, as a prisoner of war;’ a distinct admission that he was not so in contemplation of law, until the statute had imposed that character upon him.”

* Hist. of Eng. vol. iii. p. 121. Cab. Cyc.

This note is interesting, not only as the solemn judgment of Sir James Mackintosh in two memorable cases, but as illustrative of his mind. He expressed his opinions in the House of Commons, for the most part, with frankness and decision. It could not be otherwise in a popular assembly and in the shock of debate. But, writing in his cabinet, he sometimes conveyed his ideas on controverted matters in language so indecisive, contradictory, qualified, or vague, as to leave his conclusions and his judgment as doubtful as the case itself. For instance, in the foregoing note he lays it down as his premise, that the liberty of Mary was *deemed* to be *at variance* with the safety of the English government, &c., and in the next sentence he says, “the imprisonment, though in neither case warranted by the rules of municipal or international law, was in both justified by that *necessity* from which these rules have sprung.” Here the phrase, “to be at variance,” must be received in the sense of absolute incompatibility, in order to bring the case within that “*necessity*” which is the middle term between his premise and his conclusion. But it will hardly be conceded that the two phrases are synonymous; and in the text which follows he reasons indirectly against the judgment given in the note, until he reaches the following inference : —

“Whoever with calmness reviews these melancholy portions of his history, after temporary passions have subsided, will find it impossible to repress a wish that no exceptions from the rules of moral and even of legal justice towards individuals may hereafter be countenanced by historians or moralists.” *

What warrant, it may be asked, had Sir James to give those “exceptions” that countenance, as an historian and moralist, which he interdicts to the historians and moralists who may come after him? This peculiarity, in the mind of Sir James Mackintosh, which may be traced in such of his writings as he published with his name, has been ascribed to the calm impartiality, the judicial impassiveness of temper, the comprehensive view and careful examination of the grounds and reasons on both sides, with which he approached the decision of every question. There is in this much

* How much more frank and precise is the language of Mr. Fox! “The danger,” says he, speaking of this justification on the principle of self-defence, “must be not problematical and remote, but evident and immediate.” — *Frag. Hist. Reign of James II.*

truth. But clear views, strong convictions, strong sentiments even, in matters not of reasoning, conclusions arrived at as demonstrative, will not capitulate with any adverse doubts, arguments, or authorities. The man whose principles are deep rooted will not be easily brought to distrust them : the man whose perceptions are clear and strong will choose his language, not for its reserve or prudence, but for its decision or force.

As an historian, he sometimes thought too much of discoursing, and too little of narrating. Instead of relating events and circumstances, he takes them up as subjects of disquisition. He is luminous and copious, but diffuse and only not irrelevant. He rarely characterises persons, actions, or events by brief, rapid, or passing traits, like those of Tacitus, Montesquieu, Voltaire, and Gibbon. It is certain that truth may be forgotten or sacrificed for epigram and the sententious; but it is equally certain that such touches of the pencil in the hands of a master, whether on canvass or on paper, are pledges of fidelity to the particular subject, and to nature. He indulges somewhat in vagrant digression : he pursues and illustrates, with a certain disregard of the order of time, or place, or matter, any topic of fact or speculation which starts before him. There is, in consequence, some want of method, and of what is called keeping; or, if a more precise term may be borrowed from the vocabulary of our neighbours, a want of co-ordinance in his writings, whether historical or speculative. It has been said of him, by one who knew him well, personally and in his works, that as a writer of commentaries upon history he would have been admirable, and in his place. It is not easy to characterise his style, from its want of a distinctive individualising physiognomy. He speaks often with contemptuous aversion of "sophists and rhetors." His own great aim was frankness and simplicity. He, however, did not always steadily attain, or perhaps had not perfectly mastered and made his own, those rare and difficult graces of composition. His constructions of language are sometimes embarrassed and prolix; and his efforts to be simple might sometimes be mistaken for carelessness. He studiously avoided the gallicisms so common in Burke, and from which Hume is not free: he rigorously preferred the Anglican or Saxon term before the synonyme of classic derivation—to the narrowing of his vocabulary and fettering of his diction. There are in his writings those inequalities of superior talent from which mediocrity is exempt, but which indicate that his ideas occasionally

were not clear or that his mind was fatigued. In fine, it would be easy to cite from him examples of faulty composition, and master-pieces of English style.

In his writings and speeches he indulged too liberally in praise of the living. Panegyric is of delicate and difficult execution. It is received with a disposition to detect the want of sincerity or discernment, and a certain exquisite good taste is the essential grace of eulogy. Sir James sometimes exaggerated, diverged, and even descended; but his praise was always frank, generous, friendly, disinterested, and if indiscriminate, only from excess of good nature. He was sometimes induced, by good feeling or friendship, to give the sanction of his praise to mediocrity, and lend himself to exaggerated reputation. Madame de Staël had what the Parisians called her *proneurs*, in every capital of Europe, from Rome to Stockholm. The immoderate eulogies of Sir James Mackintosh, in the *Edinburgh Review* and in society, contributed to the fashionable rage which her theatric character, melodramatic eloquence, and spurious Germanism, excited in London. He yet had not what may be called the style of compliment. His praise of individuals or their works was conveyed in simple, ingenuous, unmeasured, general terms; not in those pointed, characterising, and portable phrases which are repeated and remembered. But, indulgent to others, he was severe to himself. He descended to no artifices, resorted to no coterie, for any purposes of profit or fame. He did not seek to increase his popular celebrity at the cost of his better reputation.

He was not formed by nature or by discipline, in person or in faculty, for an accomplished orator. His person and gestures were robust and graceless, but without awkwardness or embarrassment. His countenance was strongly marked, without flexibility or force of expression. His voice was monotonous and untunable at all times; and when he became energetic or rather unguarded, a provincial enunciation impaired the correctness, and vulgarised the dignity, of his vocabulary and style. The monotony of his gestures fatigued the eye, the monotony of his enunciation jarred upon the ear. He seemed never to have thought of forming himself to the exterior of an orator. His mannerisms were those of rude, undisciplined nature, and unconscious, inveterate habit. His arm rose and fell,—his bust vibrated backwards and forwards,—up and down,—with no other change than the greater or less momentum.

He wanted the oratorical temperament. He was vehement without passion, humane without pathos : he took comprehensive and noble views without imagination or fancy. For a vigorous dialectician he was too diffuse. He did not employ either the artifices of rhetoric or the forms of logic; the syllogism like Canning, or the dilemma like Brougham. He was sometimes too erudite and abstracted for a popular assembly. The knowledge of which his own mind was full, and which overflowed from it, though not irrelevant to the subject, was sometimes unfelt by an auditory less informed than himself; and his speculative reasonings, though not too ingeniously refined, were so prolonged and philosophical as not to be always followed.

He loved to quote from the Roman classics, both in verse and prose, and quoted sometimes with felicity. But his successes were rare, compared with the frequency of his experiments, which, indeed, was such as to suggest the idea of ostentation and research. Canning, who knew the classics with greater familiarity, and a more congenial taste, was much more sparing, and incomparably more happy. Grattan, also, well acquainted with the languages and remains of Greece and Rome, rarely employed the ornament or artifice of poetical quotation. His scholarship, however, was tributary to his eloquence. He translated or parodied the classics to his purpose.* Fox, whose mind was so deeply imbued with the ancient classics, appropriated their beauties in the same way. His oratorical movements may sometimes be traced to admired passages

* He was actuated probably by an adherence to the Demosthenic model. There are, in two of his speeches, free translations of an admired passage in Virgil, which, as oratorical movements, are inferior, yet comparable, to the famous oath which Demosthenes appropriated, in the same manner, from an old Greek dramatist. The following is the passage from Virgil:

Excudent alii spirantia mollius æra,
Credo equidem : vivos ducent de marmore vultus ;
Orabunt causas melius : cœlique meatus
Describent radio, et surgentia sidera dicent :
Tu regere imperio populos, Romane, memento :
(Hæ tibi erunt artes) pacisque imponere morem ;
Parcere subjectis et debellare superbos.

“Our duties,” says Grattan in the Irish Parliament, “are of a different nature—to watch with incessant vigils the cradle of the constitution—to rear an infant state, to protect a rising trade, to foster a growing people.” Addressing the Imperial Parliament in support of the Catholic claims, in 1819, he says,—“In the arts that grace mankind other nations excelled you—they sung better—they danced better; but in stating courageous truths,—in breaking political or metaphysical chains,—here were your robust accomplishments.”

in the Greek dramatists. But if the classic quotations of Sir James Mackintosh were too profuse and far sought to be always pointed,—if they sometimes descended to hackneyed erudition, as in his repeated use of *nec meus hic sermo*,—they were often happy, effective, and applauded. With the many disadvantages of his action and enunciation, and the fewer vices of his cast of mind and style of eloquence, his faults and deficiencies were redeemed by an accent so sincere, information so extensive, so utter an oblivion of self, in his zeal for truth and his cause, humanity so redundant allied with passionless wisdom, such an union of superior talent with knowledge and meditation, that though some speakers were more popular performers, and others were heard with more of electric sympathy, not one commanded more attention and respect.

Conversation was a talent in the last century. It has become an art. No one would now be tolerated who made private society an arena for displaying the vigour and expertness of his faculties, and the extent of his acquirements. Conversation has ceased to be an exhibition of intellectual gladiatorship or declamatory power. It is regarded as a proper occasion for displaying only the lighter graces and accomplishments,—wit, fancy, knowledge of the world, a sense of the humorous and ridiculous, in social manners or individual character. It is become essentially an art in which, more than in any other, perfection and success depend upon its concealing itself. Few arts are, therefore, more difficult; and Sir James Mackintosh had the reputation of a master in it. He was rich and various, without being ambitious or prolix. He had known many eminent or remarkable persons in public life, literary and political, of whom he related anecdotes and traits of character with facility and à-propos. He avoided long speeches in the form of dissertation or narrative, which, however clever, are sure either to fatigue attention or to provoke self-love, by encroaching upon that tone of conventional equality, social and intellectual, in company, which is one of the improvements of the age. His conversation was not laboured or ostentatious, whilst it displayed, or rather implied, the powers of a superior mind; and, though undistinguished by brilliant wit or vivacity, was enlivened and relieved by a certain quiet pleasantry, sly humour, and innoxious malice, which became a manly and vigorous exercise of sarcastic power in his speeches. Some pretended memoranda of his conversation have been printed in an American periodical work. He is made to say, “Homer is

the finest ballad writer in any language.”* Sir James Mackintosh, like most Scotchmen, had an imperfect education in Greek. He must, however, have known enough of Greek and of Homer, as well as of epic poetry and of ballads, to avoid an absurdity so outrageous. The reported conversations, on the whole, would grievously let down Sir James Mackintosh. They are not those of a man whose success was unquestionable in the most fastidious and intellectual society of the British capital.

But what are these fugitive successes of society and conversation to the sacrifices of time and thought which he must have made to them? It was a melancholy weakness to have frittered away those precious hours which might be devoted in solitude to the proper labours of a man of letters, who was capable of leaving imperishable monuments of his capacity behind him. If any thing could compensate this abuse of his faculties, it is the impression, far beyond the circles in which he moved, of his engaging social character, joined with his eminent talents, and many virtues.

Sir James Mackintosh died at his house in London, on the 30th of May, and was buried in the parish church of Hampstead, on the 4th of June, 1832.

* The person who thus chose to make Homer a ballad writer had, doubtless, heard something of the foolish paradox that the several books of the Homeric poems were unconnected rhapsodies, recited through the cities of Greece.

HISTORY
OF
THE REVOLUTION
IN 1688.

CHAPTER I.

General State of Affairs at Home.—Abroad.—Characters of the Ministry.—Sunderland. — Rochester. — Halifax. — Godolphin. — Jeffrey. — Feversham. — His Conduct after the Victory of Sedgemoor.—Kirke.—Judicial Proceedings in the West.—Trials of Mrs. Lisle.—Behaviour of the King.—Trial of Mrs. Gaunt and others,—Case of Hampden.—Prideaux.—Lord Brandon.—Delamere.

THOUGH a struggle with calamity strengthens and elevates the mind, the necessity of passive submission to long adversity is rather likely to weaken and subdue it: great misfortunes disturb the understanding perhaps as much as great success; and extraordinary vicissitudes often produce the opposite vices of rashness and fearfulness by inspiring a disposition to trust too much to fortune, and to yield to it too soon. Few men experienced more sudden changes of fortune than James II.; but it was unfortunate for his character that he never owed his prosperity, and not always his adversity, to himself. The affairs of his family seemed to be at the lowest ebb a few months before triumphant restoration. Four years before the death of his brother, it appeared probable that he would be excluded from the succession to the crown; and his friends seemed to have no other means of averting that doom, than by proposing such limitations of the royal prerogative as would have reduced the government to a merely nominal monarchy.

But the dissolutions by which Charles had safely and successfully punished the independence of his last parliament, the destruction of some of his most formidable opponents, and the general discouragement of their adherents, paved the way for his peaceable, and even popular, succession; the defeat of the revolts of Monmouth and Argyle appeared to have fixed his throne on immovable foundations; and he was then placed in circumstances more favourable than those of any of his predecessors to the extension of his power, or, if such had been his purpose, to the undisturbed exercise of his constitutional authority. The friends of liberty, dispirited by events which all, in a greater or less degree, brought discredit upon their cause, were confounded with unsuccessful conspirators and defeated rebels: they seemed to be at the mercy of a prince, who, with reason, considered them as the irreconcilable enemies of his designs. The zealous partisans of monarchy believed themselves on the eve of reaping the fruits of a contest of fifty years' duration, under a monarch of mature experience, of tried personal courage, who possessed a knowledge of men, and a capacity as well as an inclination for business; whose constancy, intrepidity, and sternness were likely to establish their political principles; and from whose prudence, as well as gratitude and good faith, they were willing to hope that he would not disturb the security of their religion. The turbulence of the preceding times had more than usually disposed men of pacific temper to support an established government. The multitude, pleased with a new reign, generally disposed to admire vigour and to look with complacency on success, showed many symptoms of that propensity which is natural to them, or rather to mankind,—to carry their applauses to the side of fortune, and to imbibe the warmest passions of a victorious party. The strength of the Tories in a parliament assembled in such a temper of the nation, was aided by a numerous reinforcement of members of low condition and subservient character, whom the forfeiture of the charters of towns enabled the court to pour into the House of Commons.^a In Scotland the prevalent party had ruled with such barbarity, that the absolute power of the king seemed to be their only shield against

^a "Clerks and gentlemen's servants." Evelyn, i. 558. The Earl of Bath carried fifteen of the new charters with him into Cornwall, from which he was called the Prince "Elector." "There are not 135 in this House who sat in the last," 562. By the lists in the Parliamentary History they appear to be only 128.

the resentment of their countrymen. The Irish nation, devotedly attached to a sovereign of their own oppressed religion, offered inexhaustible means of forming a brave and enthusiastic army, ready to quell revolts in every part of his dominions.

His revenue was ampler than that of any former king of England; a disciplined army of about twenty thousand men was, for the first time, established during peace in this island, and a formidable fleet was a more than ordinarily powerful weapon in the hands of a prince whose skill and valour in maritime war had endeared him to the seamen, and recommended him to the people.

The condition of foreign affairs was equally favourable to the king. Louis XIV. had, at that moment, reached the zenith of his greatness; his army was larger and better than any which had been known in Europe since the vigorous age of the Roman empire; his marine enabled him soon after to cope with the combined forces of the two maritime powers; he had enlarged his dominions, strengthened his frontiers, and daily meditated new conquests: men of genius applauded his munificence, and even some men of virtue contributed to the glory of his reign. This potent monarch was bound to James by closer ties than those of treaty, by kindred, by religion, by similar principles of government, by the importance of each to the success of the designs of the other; and he was ready to supply the pecuniary aid required by the English monarch, on condition that James should not subject himself to the control of his parliament; but should acquiesce in the schemes of France against her neighbours. On the other hand, the feeble government of Spain was no longer able to defend her unwieldy empire; while the German branch of the Austrian family had, by their intolerance, driven Hungary into revolt, and thus opened the way for the Ottoman armies twice to besiege Vienna. Venice, the last of the Italian states which retained a national character, took no longer any part in the contests of Europe, content with the feeble lustre which conquests from Turkey shed over the evening of her greatness. The kingdoms of the north were confined within their own subordinate system; Russia was not numbered among civilised nations; the Germanic states were still divided between their fears from the ambition of France, and their attachment to her for having preserved them from the yoke of Austria. Though a powerful party in Holland were still attached to France, there remained, on the Continent, no security against the ambition of

Louis, no hope for the liberties of mankind but the power of that great republic, animated by the unconquerable soul of the prince of Orange. All those nations, of both religions, who trembled at the progress of France, turned their eyes towards James, and courted his alliance, in hopes that he might still be detached from his connexion with Louis, and that England might resume her ancient and noble station, as the guardian of the independence of nations. Could he have varied his policy, that bright career was still open to him. He, or rather a man of genius and magnanimity in his situation, might have rivalled the renown of Elizabeth, and anticipated the glories of Marlborough. He was courted or dreaded by all Europe. Who could, then, have presumed to foretell that this great monarch, in the short space of four years, would be compelled to relinquish his throne, and to fly from his country, without struggle and almost without disturbance, by the mere result of his own system of measures, which, unwise and unrighteous as it was, seemed in every instance to be crowned with success till the very moment before its overthrow.

The ability of the ministers, who were consulted on the most important measures of government, might be considered as among the happy parts of his fortune. It was a little before this time that the meetings of such ministers began to be generally known by the modern name of the cabinet council.^a The privy council had been originally a selection of a similar nature; but when seats in that body began to be given or left to those who did not enjoy the king's confidence, and it became too numerous for secrecy or despatch, a committee of its number, which is now called the cabinet council, were intrusted with the direction of confidential affairs; leaving to the body at large business of a judicial or formal nature, to the greater part of its members an honourable distinction instead of an office of trust. The members of the cabinet council were then, as they still are, chosen from the privy council by the king, without any legal nomination, and generally consisted of the ministers at the head of the principal departments of public affairs. A short account of the character of the members of the cabinet will illustrate the events of the reign of James II.

Robert Spencer, Earl of Sunderland, who soon acquired the chief ascendancy in this administration, entered on public life with

^a North's Life of Lord Keeper Guildford, 218.

all the external advantages of birth and fortune. His father fell in the royal army at the battle of Newbury, with those melancholy forebodings of danger from the victory of his own party which filled the breasts of the more generous royalists, and which, on the same occasion, saddened the dying moments of Lord Falkland. His mother was Lady Dorothy Sidney, celebrated by Waller under the name of Sacharissa. He was early employed in diplomatic missions, where he acquired the political knowledge, insinuating address, and polished manners, which are learnt in that school, together with the subtlety, dissimulation, flexibility of principle, indifference on questions of constitutional policy, and impatience of the restraints of popular government, which have been sometimes contracted by English ambassadors in the course of a long intercourse with the ministers of absolute princes. A faint and superficial preference of the general principles of civil liberty was blended in a manner not altogether unusual with his diplomatic vices. He seems to have gained the support of the Duchess of Portsmouth to the administration formed by the advice of Sir William Temple, and to have then gained the confidence of that incomparable person, who possessed all the honest arts of a negotiator.^a He gave an early earnest of the inconstancy of an overrefined character by fluctuating between the exclusion of the Duke of York and the limitations of the royal prerogative. He was removed from the administration for his vote on the Bill of Exclusion. The love of office soon prevailed over his feeble spirit of independence, and he made his peace with the court by the medium of the Duke of York, who had long been well disposed to him,^b and of the Duchess of Portsmouth, who found no difficulty in reconciling the king to a polished as well as pliant courtier, an accomplished negotiator, and a minister more versed in foreign affairs than any of his colleagues.^c Negligence and profusion bound him to office by stronger though coarser ties than those of ambition: he lived in an age when a delicate purity in pecuniary matters had not begun to have a general influence on statesmen, and when a sense of personal honour, growing out of long habits of co-operation

^a Sir W. Temple's Memoirs, Part III.

^b Legge's Letters, MS. "Lord Sunderland knows I have always been very kind to him." Duke of York to Mr. Legge, 23d July, 1679. Brussels.

^c Some of Lord Sunderland's competitors in this province were not formidable. His successor, Lord Conway, when a foreign minister spoke to him of the Circles of the Empire, said, "he wondered what circles should have to do with politics."

and friendship, had not yet contributed to secure them against political inconstancy. He was one of the most distinguished of a species of men who perform a part more important than noble in great events; who, by powerful talents, captivating manners, and accommodating opinions; by a quick discernment of critical moments in the rise and fall of parties; by not deserting a cause till the instant before it is universally discovered to be desperate, and by a command of expedients and connexions which render them valuable to every new possessor of power, find means to cling to office or to recover it, and who, though they are the natural offspring of quiet and refinement, often creep through stormy revolutions without being crushed. Like the best and most prudent of his class, he appears not to have betrayed the secrets of the friends whom he abandoned; and never to have complied with more evil than was necessary to keep his power. His temper was without rancour; he must be acquitted of prompting, or even preferring the cruel acts which were perpetrated under his administration: deep designs and premeditated treachery were irreconcilable both with his indolence and his impetuosity; and there is some reason to believe, that in the midst of total indifference about religious opinions, he retained to the end some degree of that preference for civil liberty which he might have derived from the example of his ancestors, and the sentiments of some of his early connexions.

Lawrence Hyde, Earl of Rochester, the younger son of the Earl of Clarendon, was Lord Sunderland's most formidable competitor for the chief direction of public affairs. He owed this importance rather to his position and connexions than to his abilities, which, however, were by no means contemptible. He was the undisputed leader of the Tory party, to whose highest principles in church and state he showed a constant, and probably a conscientious, attachment. He had adhered to James in every variety of fortune, and was the uncle of the Princesses Mary and Ann, who seemed likely in succession to inherit the crown. He was a fluent speaker, and appears to have possessed some part of his father's talents as a writer. He was deemed sincere and upright, and his private life was not stained by any vice, except violent paroxysms of anger, and an excessive indulgence in wine, then scarcely deemed a fault. "His infirmities," says one of the most zealous adherents of his party, "were passion, in which he would swear like a cutter, and the indulging himself in wine. But his party was that

of the Church of England, of whom he had the honour, for many years, to be accounted the head.”^a The impetuosity of his temper concurred with his opinions on government in prompting him to rigorous measures. He disdained the forms and details of business, and it was his maxim to prefer only Tories, without regard to their qualifications for office. “Do you not think,” said he to Lord Keeper Guildford, “that I could understand any business in England in a month?” “Yes, my lord,” answered the Lord Keeper, “but I believe you would understand it better in two months.” Even his personal defects and unreasonable maxims were calculated to attach adherents to him as a chief, and he was well qualified to be the leader of a party ready to support all the pretensions of any king who spared the protestant establishment.

Sir George Saville, created Marquis of Halifax by Charles II., claims the attention of the historian rather by his brilliant genius, by the singularity of his character, and by the great part which he acted in the events which preceded and followed, than by his political importance during the short period in which he held office under James. In his youth he appears to have combined the opinions of a republican^b with the most refined talents of a polished courtier. The fragments of his writing which remain show such poignant and easy wit, such lively sense, so much insight into character, and so delicate an observation of manners, as could hardly have been surpassed by any of his contemporaries at Versailles. His political speculations being soon found incapable of being reduced to practice, melted away in the sunshine of royal favour; the disappointment of visionary hopes led him to despair of great improvements, to despise the moderate services which an individual may render to the community, and to turn with disgust from public principles to the indulgence of his own vanity and ambition.

The dread of his powers of ridicule contributed to force him into office,^c and the attractions of his lively and somewhat libertine conversation were among the means by which he maintained his ground with Charles II., of whom it was said by Dryden, that “whatever his favourites of state might be, yet those of his affec-

^a North, 230.

^b “I have long looked upon Lord Halifax and Lord Essex as men who did not love monarchy, such as it is in England.” Duke of York to Legge, Letter before cited.

^c Sir William Temple. *Memoirs*, Part III.

tion were men of wit." ^a Though we have no remains of his speeches, we cannot doubt the eloquence of him who, on the Bill of Exclusion, fought the battle of the court against so great an orator as Shaftesbury. ^b Of these various means of advancement, he availed himself for a time with little scruple and with some success. But he never obtained an importance which bore any proportion to his great abilities; a failure which, in the time of Charles II., may be in part ascribed to the remains of his opinions, but which, from its subsequent recurrence, must be still more imputed to the defects of his character. He had a stronger passion for praise than for power, and loved the display of talent more than the possession of authority. The unbridled exercise of wit exposed him to lasting animosities, and threw a shade of levity over his character. He was too acute in discovering difficulties, too ingenious in devising objections. He had too keen a perception of human weakness and folly not to find many pretexts and temptations for changing his measures and deserting his connexions. The subtlety of his genius tempted him to projects too refined to be understood or supported by numerous bodies of men. His appetite for praise, when sated by the admiration of his friends, was too apt to seek a new and more stimulating gratification in the applauses of his opponents. His weaknesses and even his talents contributed to betray him into inconstancy; which, if not the worst quality of a statesman, is the most fatal to his permanent importance. For one short period, indeed, the circumstances of his situation suited the peculiarities of his genius. In the last years of Charles his refined policy found full scope in the arts of balancing factions, of occasionally leaning to the vanquished, and always tempering the triumph of the victorious party by which that monarch then consulted the repose of his declining years. Perhaps he satisfied himself with the reflection, that his compliance with all the evil which was then done was necessary to

^a Dedication to King Arthur.

^b "Jotham, of piercing wit and pregnant thought,
Endued by nature and by learning taught
To move assemblies; who but only tried
The worse awhile, then chose the better side;
Nor chose alone, but turned the balance too."

Absalom and Achitophel.

Lord Halifax says, "Mr. Dryden told me that he was offered money to write against me." Fox's MSS. written, I believe, by Lord Halifax.

enable him to save his country from the arbitrary and bigotted faction which was eager to rule it. We know from the evidence of the excellent Tillotson,^a that Lord Halifax “showed a compassionate concern for Lord Russell, and all the readiness to save him that could be wished;” and that Lord Russell desired Tillotson “to give thanks to Lord Halifax for his humanity and kindness:” and there is some reason to think that his intercession might have been successful, if the delicate honour of Lord Russell had not refused to second their exertions, by softening his language on the lawfulness of resistance,—a shade more than scrupulous sincerity would warrant.^b He seems unintentionally to have contributed to the death of Sidney,^c by procuring a sort of confession from Monmouth, in order to reconcile him to his father, and to balance the influence of the Duke of York, by Charles’s partiality for his son. The compliances and refinements of that period pursued him with, perhaps, too just a retribution during the remainder of his life. James was impatient to be rid of him who had checked his influence during the last years of his brother, and the friends of liberty could never place any lasting trust in the man who remained a member of the government which put to death Russell and Sidney.

The part performed by Lord Godolphin at this time was not so considerable as to require a full account of his character. He was a gentleman of ancient family in Cornwall, distinguished by the accomplishments of some of its members, and by their sufferings in the royal cause during the civil war. He held offices at court before he was employed in the service of the state, and he always retained the wary and conciliating manners, as well as the profuse dissipation, of his original school. Though a royalist and courtier, he voted for the Bill of Exclusion. At the accession of James, he was not considered as favourable to absolute dependence on France, nor to the system of governing without parliaments. But though a member of the cabinet, he was, during the whole of this reign, rather a public officer, who confined himself to his own

^a Lords’ Journals, 20th Dec. 1689. The Duchess of Portsmouth said to Lord Montague, “that if others had been as earnest as my Lord Halifax with the King, Lord Russell might have been saved.” Fox’s MSS. Other allusions in the MSS., which I ascribe to Lord Halifax, show that his whole fault was continuance in office after the failure of his efforts to save Lord Russell.

^b Lord J. Russell’s Life of Lord Russell, 215.

^c Evidence of M. Hampden and Sir James Forbes. Lords’ Journals, 20th Dec. 1689.

department, than a minister who took a part in the direction of the state.^a The habit of continuing some officers in place under successive administrations, for the convenience of business, then extended to higher persons than it has usually comprehended in more recent times.

James had, soon after his accession, introduced into the cabinet Sir George Jeffreys, Lord Chief Justice of England,^b a person whose office did not usually lead to that station, and whose elevation to unusual honour and trust is characteristic of the government which he served. His origin was obscure, his education scanty, his acquirements no more than what his vigorous understanding gathered in the course of business, his professional practice low, and chiefly obtained from the companions of his vulgar excesses, whom he captivated by that gross buffoonery which accompanied him to the most exalted stations. But his powers of mind were extraordinary; his elocution was flowing and spirited; and, after his highest preferment, in the few instances where he preserved temper and decency, the native vigour of his intellect shone forth in his judgments, and threw a transient dignity over the coarseness of his deportment. He first attracted notice by turbulence in the petty contests of the Corporation of London; and having found a way to court through some of those who ministered to the pleasures of the King, as well as to the more ignominious of his political intrigues, he made his value known by contributing to destroy the charter of the capital of which he had been the chief law officer. His services as a counsel in the trial of Russell, and as a judge in that of Sidney, proved still more acceptable to his masters. On the former occasion, he caused a person who had collected evidence for the defence to be turned out of court, for making private suggestions, probably important to the ends of justice, to Lady Russell, while she was engaged in her affecting duty.^c The same brutal insolence shown in the trial of Sidney, was, perhaps, thought the more worthy of reward, because it was foiled by the calm heroism of that great man. The union of a powerful understanding with boisterous violence and the basest subserviency, sin-

^a "Milord Godolphin quoiqu'il est du secret n'a pas grand credit, et songe seulement à se conserver par une conduite sage et modérée. Je ne pense pas que s'il en était cru, on prit des liaisons avec V. M. qui pussent aller à se passer entièrement du parlement et à rompre nettement avec le Prince d'Orange." Barillon au Roi, 15 Avril, 1685. Fox, App. lviii.

^b Roger North, 234. (After the Northern Circuit, 1684; in our computation, 1685.)

^c Examinations of John Tisard. Lords' Journals, 20th Dec. 1690.

gularly fitted him to be the tool of a tyrant. He wanted, indeed, the aid of hypocrisy, but he was free from its restraints. He had that reputation for boldness which many men preserve, as long as they are personally safe, by violence in their counsels and in their language. If he at last feared danger, he never feared shame, which much more frequently restrains the powerful. Perhaps the unbridled fury of his temper enabled him to threaten and intimidate with more effect than a man of equal wickedness, with a cooler character. His religion, which seems to have consisted in hatred to Nonconformists, did not hinder him from profaneness: his native fierceness was daily inflamed by debauchery; his excesses were too gross and outrageous for the decency of historical relation,^a and his court was a continual scene of scurrilous invective, from which none were exempted but his superiors.

A contemporary, of amiable disposition and Tory principles, who knew him well, sums up his character in few words—"he was by nature cruel, and a slave of the court."^b

It was after the defeat of Monmouth that James gave free scope to his policy, and began that system of measures which characterises his reign.

Though Feversham was, in the common intercourse of life, a good-natured man, his victory at Sedgemoor was immediately followed by some of those acts of military licence which usually disgrace the suppression of a revolt, when there is no longer any dread of retaliation; when the conqueror sees a rebel in every inhabitant, and considers destruction by the sword as only anticipating legal execution, and when he is generally well assured, if not positively instructed, that he can do nothing more acceptable to his superiors than to spread a deep impression of terror through a disaffected province. A thousand were slain in a pursuit of a small body of insurgents for a few miles. Feversham marched into Bridgewater on the morning after the battle, with a considerable number tied together like slaves, of whom twenty-two were hanged by his orders on a sign-post by the road side, and on gibbets which

^a See the account of his behaviour at a ball in the city, soon after Sidney's condemnation. Evelyn, i. 531.; and the dinner at Duncombe's, a rich citizen, where the Lord Chancellor (Jeffreys) and the Lord Treasurer (Rochester) were with difficulty prevented from appearing naked in a balcony, to drink loyal toasts (Resby, 231.), and of his "flaming" drunkenness at the privy council, when the King was present. Roger North, 250.

^b Evelyn, i. 579.

he caused to be erected for the occasion. One of them was a wounded officer, named Adlam, who was already in the agonies of death. Four were hanged in chains with a deliberate imitation of the barbarities of regular law; and one miserable wretch, to whom life had been promised on condition of his keeping pace for half a mile with a horse at full speed (to whom he was fastened by a rope which went round his neck and that of the horse), was executed in spite of his performance of the feat. Feversham was proceeding thus towards disarmed enemies, to whom he had granted quarter, when Ken, the Bishop of the diocese, a zealous royalist, had the courage to rush into the midst of this military execution, calling out, "My Lord, this is murder in law. These poor wretches, now the battle is over, must be tried before they can be put to death."^a

The interposition of this excellent prelate, however, only suspended the cruelties of the conquerors. Feversham was called to court to receive the thanks and honours due to his services. Kirke, whom he was directed^b to leave with detachments at Bridgewater and Taunton, imitated, if he did not surpass, the lawless violence of his commander. When he entered the latter town, on the third day after the battle, he put to death at least nine of his prisoners, with so little sense of impropriety or dread of disapprobation, that they were entered by name as executed for high treason in the parish register of their interment.^c Of the other excesses of Kirke we have no satisfactory account. The experience of like cases, however, renders the tradition not improbable, that these acts of lawless violence were accompanied by the insults and mockeries of military debauchery. The nature of the service in which the detachment was principally engaged, required more than common virtue in a commander to contain the passions of the soldiery. It was his principal duty to search for rebels. He

^a For the principal part of the enormities of Feversham, we have the singular advantage of the testimony of two eye-witnesses,—an officer in the royal army, Kennett, iii. 432, and Oldmixon, i. 704. Locke's Western Rebellion.

^b Lord Sunderland's letter to Lord Feversham, 8th July, 1685. State Paper Office.

^c Savage's edition of Toulmin's Taunton, p. 522., where, after a period of near 140 years, the authentic evidence of this fact is for the first time published, together with other important particulars of Monmouth's revolt, and of the military and judicial cruelties which followed it. These nine are by some writers swelled to nineteen, probably from confounding them with that number executed at Taunton by virtue of Jeffreys's judgments. The number of ninety mentioned on this occasion by others seems to be altogether an exaggeration.

was urged to the performance of this odious task by malicious or mercenary informers. The friendship, or compassion, or political zeal of the inhabitants, was active in favouring escapes, so that a constant and cruel struggle subsisted between the soldiers and the people abetting the fugitives.^a Kirke's regiment, when in garrison at Tangier, had had the figure of a lamb painted on their colours as a badge of their warfare against the enemies of the Christian name. The people of Somersetshire, when they saw those who thus bore the symbols of meekness and benevolence engaged in the performance of such a task, vented the bitterness of their heart against the soldiers, by giving them the ironical name of Kirke's Lambs.^b The unspeakable atrocity imputed to him, of putting to death a person whose life he had promised to a young woman, as the price of compliance with his desires, it is due to the honour of human nature to disbelieve, until more satisfactory evidence be produced than that on which it has hitherto rested.^c He followed the example of ministers and magistrates in selling pardons to the prisoners in his district, which, though as illegal as his executions, enabled many to escape from the barbarities which were to come.^d Base as this traffic was, it would naturally lead him to threaten more evil than he inflicted. It deserves to be remarked, that, five years after his command at Taunton, the inhabitants of that place gave an entertainment, at the public expense, to celebrate his success.^e This fact seems to countenance a suspicion that we ought to attribute more to the nature of the service in which he was engaged than to any pre-eminence in criminality, the peculiar odium which has fallen on his name, to the exclusion of other officers, whose excesses appear to have been greater, and are certainly more satisfactorily attested. But whatever opinion may be formed of the degree of Kirke's guilt, it is certain that

^a Col. Kirke to Lord Sunderland. Taunton, 12th Aug. 1685. State Paper Office.

^b Savage.

^c This story is told neither by Oldmixon nor Burnet, nor by the humble writers of the "Bloody Assizes," nor the "Quadriennium Jacobi," 1689. Echard and Kennet, who wrote long after, mention it only as a report. It first appeared in print in 1699, in Pomfret's poem of "Cruelty and Lust." The next is in the anonymous Life of William III., 1702. A story very similar is told by St. Augustine, of a Roman officer; and in the "Spectator," No. 491, of a governor of Zealand, probably from a Dutch chronicle or legend. The scene is laid by some at Taunton, by others at Exeter. The person executed is said by some to be the father, by others to be the husband, and by a third sort to be the brother of the unhappy young woman, whose name it has been found impossible to ascertain, or even plausibly to conjecture. The tradition, which is still said to prevail at Taunton, may well have originated in a publication of 120 years old.

^d Oldmixon.

^e Savage.

he was rather countenanced than discouraged by the government. His illegal executions were early notorious in London.^a The good Bishop Ken, who then corresponded with the King himself, on the sufferings of his diocese,^b could not fail to remonstrate against those excesses, which he had so generously interposed to prevent; and if the accounts of the remonstrances of Lord Keeper Guilford, against the excesses of the west, have any foundation,^c they must have related exclusively to the enormities of the soldiery, for the Lord Keeper died at the very opening of Jeffreys's circuit. Yet, with this knowledge, Lord Sunderland instructed Kirke "to secure such of his prisoners as had not been executed, in order to trial,"^d at a time when there had been no legal proceedings, and when all the executions to which he adverts, without disapprobation, must have been contrary to law. Seven days after, Sunderland informed Kirke that his letter had been communicated to the King, "who was very well satisfied with the proceedings."^e In subsequent despatches,^f he censures Kirke for setting some rebels at liberty (alluding, doubtless, to those who had purchased their lives); but he does not censure that officer for having put others to death. Were it not for these proofs that the King knew the acts of Kirke, and that his government officially sanctioned them, no credit would be due to the declarations afterwards made by such a man, that his severities fell short of the orders which he had received.^g Nor is this the only circumstance which connects the government with these enormities. On the 10th of August, Kirke was ordered to come to court to give information on the state of the west. His regiment was soon afterwards removed, and he does not appear to have been employed in the west during the remainder of that season.^h

Colonel Trelawney succeeded; but so little was Kirke's conduct thought to be blamable, that on the 1st of September three persons were executed illegally at Taunton for rebellion, the nature and reason of their death being openly avowed in the register of their

^a Narcissus Luttrell, Diary, 15th July; six days after their occurrence.

^b Ken's examination before the Privy Council, 1696. *Biographia Britannica*.

^c Roger North, 260. This inaccurate writer refers the complaint to Jeffries's proceedings, which is impossible, since Lord Guilford died in Oxfordshire, on the 5th September, after a long illness. Lady Lisle was executed on the 3d; and her execution, the only one which preceded the death of the Lord Keeper, could scarcely have reached him in his dying moments.

^d Lord Sunderland to Kirke, 14th July, 1685. State Paper Office.

^e 21st July. *Ibid.*

^g Oldmixon, i. 705.

^f 25th and 28th July, and 3d August. *Ibid.*

^h Papers in the War Office. MS.

interment.^a In military executions, however atrocious, some allowance must be made for the passions of an exasperated soldiery, and for the habits of officers accustomed to summary and irregular acts, who have not been taught by experience that the ends of justice cannot be attained otherwise than by the observance of the rules of law.^b The lawless violence of an army forms no precedent for the ordinary administration of public affairs, and the historian is bound to relate with diffidence events which are generally attended with confusion and obscurity, which are exaggerated by the just resentment of an oppressed party, and where we can seldom be guided by the authentic evidence of records. Neither the conduct of a government which approves these excesses, however, nor that of judges who imitate or surpass them, allows such extenuations or requires such caution in relating and characterising facts. The judicial proceedings which immediately followed these military atrocities may be related with more confidence, and must be treated with the utmost rigour of historical justice.

The commencement of proceedings on the western circuit, which comprehends the whole scene of Monmouth's operations, was postponed till the other assizes were concluded, in order that four judges, who were joined with Jeffreys in the commission, might be at liberty to attend him.^c An order was also issued to all officers in the west, "to furnish such parties of horse and foot, as might be required by the Lord Chief Justice on his circuit, for securing prisoners, and to perform that service in such manner as he should direct."^d After these unusual and alarming preparations, Jeffreys began his circuit at Winchester, on the 27th of August, by the trial of Mrs. Alicia Lisle, who was charged with having sheltered in her house, for one night, two fugitives from Mon-

^a Savage, 525. Register of Parish of St. Mary Magdalen:—"1 Sept., three rebels executed."

^b Two years after the suppression of the western revolt, we find Kirke treated with favour by the King. Colonel Kirke is made housekeeper of Whitehall, in the room of his *kinsman*, deceased. Narc. Lutt., Sept. 1687. He was nearly related to, or perhaps the son of, George Kirke, groom of the bedchamber to Charles I, one of whose beautiful daughters, Mary, a maid of honour, was the Warmestre of Count Hamilton (Notes to Mem. de Gramm. London, 1793), and the other, Diana, was the wife of the last Earl of Oxford, of the house of De Vere. Dugd. Baron. tit. Oxford.

^c Lord Chief Baron Montague, Levison, Watkins, and Wright, of whom the three former sat on the subsequent trials of Mr. Cornish and Mrs. Gaunt.

^d This order was dated on the 24th August, 1685. Papers in War Office. From this circumstance originated the story, that Jeffreys had a commission as Commander-in-Chief in the west.

mouth's routed army, an office of humanity which then was and still is treated as high treason by the law of England. This lady, though unaided by counsel, so deaf that she could very imperfectly hear the evidence, and occasionally overpowered by those lethargic slumbers which are incident to advanced age, defended herself with a coolness which formed a striking contrast to the deportment of her judge.^a The principal witness, a man who had been sent to her to implore shelter for one Hickes, and who guided him and Nelthorpe to her house, betrayed a natural repugnance to disclose facts likely to affect a life which he had innocently contributed to endanger. Jeffreys, at the suggestion of the counsel for the crown, took upon himself the examination of this unwilling witness, and conducted it with an union of artifice, menace, and invective, which no well-regulated tribunal would suffer in the advocate of a prisoner, when examining the witness produced by the accuser. With solemn appeals to Heaven for his own pure intentions, he began in the language of candour and gentleness to adjure the witness to discover all that he knew. His nature, however, often threw off this disguise, and broke out into the ribaldry and scurrility of his accustomed style. The Judge and three counsel poured in questions upon the poor rustic in rapid succession. Jeffreys said that he treasured up vengeance for such men, and added, "It is infinite mercy that for those falsehoods of thine, God does not immediately strike thee into Hell." Wearied, overawed, and overwhelmed by such an examination, the witness at length admitted some facts which afforded reason to suspect, rather than to believe, that the unfortunate lady knew the men whom she succoured to be fugitives from Monmouth's army. She said in her defence, that she knew Mr. Hickes to be a Presbyterian minister, and thought he absconded because there were warrants out against him on that account. All the precautions for concealment which were urged as proofs of her intentional breach of law were reconcilable with this defence. Orders had been issued at the beginning of the revolt to seize all "disaffected and suspicious persons, especially all nonconformist ministers;"^b and Jeffreys himself unwittingly strengthened her case by declaring his conviction, that all Presbyterians had a hand in the rebellion. He did

^a Howell's State Trials, xi. 298.

^b Despatches from Lord Sunderland to all Lord-lieutenants of Counties. 20th June, 1685.

not go through the formality of repeating so probable a defence to the jury. They however hesitated. They asked the Chief Justice, whether it were as much treason to receive Hickes before as after conviction? He told them that it was, which was literally true; but he wilfully concealed from them that by the law, such as it was, the receiver of a traitor could not be brought to trial till the principal traitor had been convicted or outlawed: a provision, indeed, so manifestly necessary to justice, that without the observance of it Hickes might be acquitted of treason after Mrs. Lisle had been executed for harbouring him as a traitor.^a Four judges looked silently on this suppression of truth, which produced the same effect with positive falsehood, and allowed the limits of a barbarous law to be overpassed, in order to destroy an aged woman for an act of charity. The jury retired, and remained so long in deliberation, as to provoke the wrath of the Chief Justice. When they returned into court, they expressed their doubt, whether the prisoner knew that Hickes had been in Monmouth's army. The Chief Justice assured them that the proof was complete. Three times they repeated their doubt. The Chief Justice as often reiterated his declaration with growing impatience and rage. At this critical moment of the last appeal of the jury to the court, the defenceless female at the bar made an effort to speak. Jeffreys, taking advantage of formalities, instantly silenced her, and the jury were at length overawed into a verdict of guilty. He then broke out into a needless insult to the strongest affections of nature, saying to the jury, "Gentlemen, had I been among you, and if she had been my own mother, I should have found her guilty." On the next morning, when he had to pronounce sentence of death, he could not even then abstain from invectives against Presbyterians, of whom he supposed Mrs. Lisle to be one; yet mixing artifice with his fury, he tried to lure her into discoveries, by ambiguous phrases, which might excite her hopes of life without pledging him to obtain pardon. He directed that she should be burnt alive in the afternoon of the same day; but the clergy of the cathedral of Winchester successfully interceded for an interval of three days. This interval gave time for an application to the King, and that application was made by persons, and with circumstances, which must have strongly called his attention to

^a Hale's Pleas of the Crown, part i. c. 22. Foster's Discourse on Accessories, c. 1.

the case. Mrs. Lisle was the widow of Mr. Lisle, who was one of the Judges of Charles the First; and this circumstance, which excited a prejudice against her, served in its consequences to show that she had powerful claims on the lenity of the King. Lady St. John and Lady Abergavenny wrote a letter to Lord Clarendon, then Privy Seal, which he read to the King, bearing testimony, "that she had been a favourer of the King's friends in their greatest extremities during the late civil war," among others, of these ladies themselves; and on these grounds, as well as for her general loyalty, earnestly recommending her to pardon. Her son had served in the King's army against Monmouth; she often had declared that she shed more tears than any woman in England on the day of the death of Charles the First, and after the attainder of Mr. Lisle, his estate was granted to her at the intercession of Lord Chancellor Clarendon, for her excellent conduct during the prevalence of her husband's party. Lord Feversham, also, who had been promised a thousand pounds for her pardon, used his influence to obtain it: but the King declared that he would not reprieve her for one day. It is said, that he endeavoured to justify himself, by alleging a promise to Jeffreys that Mrs. Lisle should not be spared; a fact which, if true, shows the conduct of James to have been as deliberate as it seems to be, and that the severities of the circuit arose from a previous concert between him and Jeffreys.

On the following day the case was again brought before him by a petition from Mrs. Lisle, praying that her punishment might be changed into beheading, in consideration of her ancient and honourable descent. After a careful search for precedents, the mind of James was once more called to the fate of Mrs. Lisle by the signature of a warrant to authorise the infliction of the mitigated punishment. This venerable matron accordingly suffered death on the 2d of September, supported by that piety which had been the guide of her life. Her understanding was so undisturbed, that she clearly instanced the points in which she had been wronged. No resentment troubled the composure of her dying moments, and she carried her religious principles of allegiance and forgiveness so far, as to pray on the scaffold for the prosperity of a prince from whom she had experienced neither mercy, gratitude, nor justice.

The trial of Mrs. Lisle is a sufficient specimen of the proceedings

of this circuit. When such was the conduct of the judges in a single trial of a lady of distinction for such an offence, with a jury not regardless of justice, where there was full leisure for the consideration of every question of fact and law, and where every circumstance was made known to the government and the public, it is easy to imagine what the demeanour of the same tribunal must have been in the trials of several hundred insurgents of humble condition, crowded into so short a time that the wisest and most upright judges could hardly have distinguished the innocent from the guilty.^a

As the movements of Monmouth's army had been confined to Dorset and Somerset, the acts of high treason were almost entirely committed there, and the prisoners apprehended elsewhere were therefore removed for trial to these counties.^b That unfortunate district was already filled with dismay and horror by the barbarities of the troops; the roads leading to its principal towns were covered with prisoners under military guards, the display and menace of warlike power were most conspicuous in the retinue of insolent soldiers and trembling culprits who followed the march of the judges, forming a melancholy contrast to the parental confidence which was wont to pervade the administration of the unarmed laws of a free people. Three hundred and twenty prisoners were arraigned at Dorchester, of whom thirty-five pleaded not guilty, and on their trial five were acquitted and thirty were convicted. The Chief Justice caused some intimation to be conveyed to the prisoners that confession was the only road to mercy; and to strengthen the effect of this hint, he sent twenty-nine of the persons convicted to immediate execution, though one of them at least was so innocent that had there been time to examine his case,

^a By the favour of the clerk of assize, I have before me many of the original records of this circuit. The account of it by Lord Lonsdale was written in 1688. The "Bloody Assizes" and the "Life of Jeffreys" were published in 1689. They were written by one Shirley, a compiler, and by Pitts, a surgeon in Monmouth's army. Six thousand copies of the latter were sold. (Life of John Dunton, i. 184.) Roger Coke, a contemporary, and Oldmixon, almost an eye-witness, vouch for their general fairness; and I have found an unexpected degree of coincidence between them and the circuit records. Burnet came to reside at Salisbury in 1689, and he and Kennett began to relate the facts about seventeen years after they occurred. Father Orleans, and the writer of James's life, admit the cruelties, while they vainly strive to exculpate the King from any share in them. From a comparison of those original authorities, and from the correspondence, hitherto unknown, in the State Paper Office, the narrative of the text has been formed.

^b There were removed to Dorchester 94 from Somerset, 89 from Devon, 55 from Wilts, and 23 from London. Circuit Records.

he might even then have been pardoned.^a The intimation illustrated by such a commentary produced the intended effect. Two hundred and eight at once confessed.^b Eighty persons were, according to contemporary accounts, executed at Dorchester; and though the records state only the execution of fifty, yet as they contain no entry of judgment in two hundred and fifty cases, their silence affords no presumption against the common accounts.

The correspondence of Jeffreys with the King and the minister appears to have begun at Dorchester. From that place he wrote on the 8th of September, in terms of enthusiastic gratitude to Sunderland, to return thanks for the Great Seal.^c Two days afterwards he informed Sunderland, that though "tortured by the stone," he had that day "despatched ninety-eight rebels."^d Sunderland assured him in answer, that the King approved all his proceedings, of which very minute accounts appear to have been constantly transmitted by Jeffreys directly to the King himself.^e In the county of Somerset more than a thousand prisoners were arraigned for treason at Taunton and Wells, of whom only six ventured to put themselves on their trial by pleading not guilty. A thousand and forty confessed themselves to be guilty; a proportion of confessions so little corresponding to the common chances of precipitate arrests, of malicious or mistaken charges, and of escapes on trial, all which were multiplied in such violent and hurried proceedings, as clearly to show that the measures of the circuit had already extinguished all expectation that the Judges would observe the rules of justice. Submission afforded some chance of escape. From trial the most innocent could no longer have any hope. Only six days were allowed in this county to find indictments against a thousand prisoners, to arraign them, to try the few who still ventured to appeal to law, to record the confessions of the rest, and to examine the circumstances which ought, in each case, to aggravate or extenuate the punishment. The names of two hundred and thirty-nine persons executed there are preserved.^f But as no

^a Bragg, an attorney. Bloody Assizes. Locke, Western Rebellion.

^b Calendar for Dorsetshire summer assizes, 1685.

^c The Great Seal had only been vacant three days, as Lord Keeper Guilford died at his seat at Wroxton, on the 5th Sept.

^d Jeffreys to Sunderland, 8th and 10th Sept. 1685. State Paper Office.

^e Sunderland to Jeffreys. Windsor, 14th Sept. 1684.

^f Life and Death of George Lord Jeffreys. 1689.

judgments are entered,^a we do not know how many more may have suffered. In order to diffuse terror more widely, these executions were directed to take place in thirty-six towns and villages. Three were executed in the village of Wrington, the birthplace of Mr. Locke, whose writings were one day to lessen the misery suffered by mankind from cruel laws and unjust judges. The general consternation spread by these proceedings have prevented a particular account of many of the cases from reaching us. In some of those more conspicuous instances which have been preserved, we see what so great a body of obnoxious culprits must have suffered in narrow and noisome prisons, where they were often destitute of the common necessities of life, before a judge whose native rage and insolence were stimulated by daily intoxication, and inflamed by the agonies of an excruciating distemper, from the brutality of soldiers, and the cruelty of slavish or bigoted magistrates; while one part of their neighbours were hardened against them by faction, and the other deterred from relieving them by fear. The ordinary executioners, unequal to so extensive a slaughter, were aided by novices, whose unskillfulness aggravated the horrors of that death of torture which was then the legal punishment of high treason. Their lifeless remains were treated with those indignities and outrages which still^b continue to disgrace the laws of a civilised age. They were beheaded and quartered, and the heads and limbs of the dead were directed to be placed on court-houses, and in all conspicuous elevations in streets, high roads, and churches. The country was filled with the dreadful preparations necessary to fit these inanimate members for such an exhibition, and the roads were covered by vehicles conveying them to great distances in every direction.^c There was not a hamlet in which the poor inhabitants were not doomed hourly to look on the mangled remains of a neighbour or a relation. "All the high roads of the country were no longer to be travelled, while the horrors of so many quarters of men and the offensive stench of them lasted."^d

^a Circuit Records.

^b [1822.]

^c "Nothing could be liker hell than these parts: caldrons hissing, carcasses boiling, pitch and tar sparkling and glowing, bloody limbs boiling, and tearing, and mangling." *Bloody Assizes*, 3d ed. 140. "England is now an aceldama. The country, for sixty miles, from Bristol to Exeter, had a new terrible sort of sign-posts, gibbets, heads and quarters of its slaughtered inhabitants." *Oldmixon*, i. 707. An eye-witness.

^d Lord Lonsdale's *Memoirs*, 13., who confirms the testimony of the two former ardent partisans, both of whom, however, were eye-witnesses.

While one of the most fertile and cheerful provinces of England was thus turned into a scene of horror by the mangled remains of the dead, the towns resounded with the cries, and the streets streamed with the blood of men, and even women and children, who were cruelly whipped for real or pretended sedition. The case of John Tutchins,^a afterwards a noted political writer, is a specimen of these minor cruelties. He was tried at Dorchester, under the assumed name of Thomas Pitts, for having said that Hampshire was up in arms for the Duke of Monmouth; and, on his conviction, was sentenced to be whipped through every market town in the county for seven years. The females in court burst into tears, and even one of the officers of the court ventured to observe to the Chief Justice, that the culprit was very young, and that the sentence would reach to once a fortnight for seven years. These symptoms of pity exposed the prisoner to new brutality from his judge. Tutchins is said to have petitioned the King for the more lenient punishment of the gallows. He was seized with the small-pox in prison; and, whether from unwonted compassion, or from the misnomer in the indictment, he appears to have escaped the greater part of the barbarous punishment to which he was doomed.

These dreadful scenes are relieved by some examples of generous virtue in individuals of the victorious party. Harte, a clergyman of Taunton, following the excellent example of the Bishop, interceded for some of the prisoners with Jeffreys in the full career of cruelty. The intercession was not successful; but it compelled Jeffreys to honour the humanity to which he did not yield, for he soon after preferred Harte to be a prebendary of Bristol. Both Ken and Harte, who were probably at the moment charged with disaffection, sacrificed at a subsequent period their preferments, rather than violate the allegiance which they thought still to be due to the King; while Mew, Bishop of Winchester, who was on the field of battle at Sedgmoor, and who ordered that his coach-horses should drag forward the artillery of the royal army, preserved his rich bishopric by compliance with the government of King William, although founded on the deposition of a monarch for whom, while fortune smiled, the prudent prelate had shown such forward and unbecoming zeal. The army of Monmouth

^a Savage, 509. Locke's Western Rebellion, 21. Dorchester Calendar, Autumn assizes, 1685.

also afforded instructive proofs, that the most furious zealots are not always the most consistent adherents. Ferguson and Hooke, two presbyterian clergymen in that army, passed most of their subsequent lives in Jacobite intrigues, either from incorrigible habits of conspiracy, or from resentment at the supposed ingratitude of their own party, or from the inconstancy natural to men of unbridled passions and distempered minds.

Daniel De Foe, one of the most original writers of the English nation, served in the army of Monmouth; but we do not know the particulars of his escape. A great satirist had afterwards the baseness to reproach both Tutchins and De Foe with sufferings, which were dishonourable only to those who inflicted them.^a

In the meantime, peculiar circumstances rendered the correspondence of Jeffreys in Somersetshire with the King and his minister more specific and confidential than it had been in the preceding parts of the circuit. Lord Sunderland had apprised Jeffreys of the King's pleasure to bestow a thousand convicts on several courtiers, and one hundred on a favourite of the Queen,^b on these persons finding security that the prisoners should be enslaved for ten years in some West India island; a limitation intended, perhaps, only to deprive the convicts of the sympathy of the puritan colonists of New England, but which, in effect, doomed them to a miserable and lingering death in a climate where field-labour is fatal to Europeans. Jeffreys, in his letter to the King, remonstrates against this disposal of the prisoners; who, he says, would be worth ten or fifteen pounds a-piece;^c and, at the same time, returns thanks for his Majesty's gracious acceptance of his services. In a subsequent letter from Bristol,^d he yields to the distribution of the convicts; boasts of his victory over that most factious city, where he had committed the mayor and an alderman, under pretence of their selling to the plantations men whom they had unjustly convicted with a view to such a sale; and pledged himself "that Taunton, and Bristol, and the county of

^a "Earless on high stood unabashed De Foe,
And Tutchins flagrant from the scourge below."

^b Sunderland to Jeffreys, 14th and 15th Sept. 1685. State Paper Office. 200 to Sir Robert White, 200 to Sir William Booth, 100 to Sir C. Musgrave, 100 to Sir W. Stapleton, 100 to J. Kendall, 100 to — Triphol, 100 to a merchant. "The Queen has asked 100 more of the rebels."

^c Jeffreys to the King. Taunton, 19th Sept. MS. State Paper Office.

^d Jeffreys to Lord Sunderland. Bristol, 22d Sept. MS. Ibid.

Somerset, should know their duty both to God and their King before he leaves them." He entreated the King not to be surprised into pardons.

James, being thus regularly apprised of the most minute particulars of Jeffreys's proceedings, was accustomed to speak of them to the foreign ministers under the name of "Jeffreys's campaign."^a He amused himself with horse-races at Winchester, the scene of the recent execution of Mrs. Lisle, during the hottest part of Jeffreys's operations.^b He was so fond of the phrase of "Jeffreys's campaign," as to use it twice in his correspondence with the Prince of Orange; and, on the latter occasion, in a tone of exultation approaching to defiance.^c The excellent Ken had written to him a letter of expostulation on the subject.^d On the 30th of September, on Jeffreys's return to court, his promotion to the office of Lord Chancellor was announced in the Gazette, with a panegyric on his services very unusual in the cold formalities of official appointment. Had James been dissatisfied with the conduct of Jeffreys, he had the means of repairing some part of its consequences, for the executions in Somersetshire were not concluded before the latter part of November; and among the persons who suffered in October was Mr. Hickes, a Nonconformist clergyman, for whom his brother, the learned Dr. Hickes, afterwards a sufferer in the cause of James, sued in vain for pardon.^e Some months after,^f when Jeffreys had brought on a fit of dangerous illness by one of his furious debauches, the King expressed great concern, and declared that the loss could not be easily repaired.

The public acts and personal demeanour of the King himself agreed too well with the general character of these judicial severities. An old officer, named Holmes, who was taken in Monmouth's

^a Burnet, i. 648.

^b 14th to 18th Sept. London Gazettes.

^c The King to the Prince of Orange, 10th and 24th Sept. App. to Dalrymple.

^d Lord Lonsdale.

^e The Père d'Orleans, who wrote under the eye of James, in 6695, mentions the displeasure of the King at the sale of pardons, and seems to refer to Lord Sunderland's letter to Kirke, who, we know from Oldmixon, was guilty of that practice; and, in other respects, rather attempts to account for, than to deny, the acquiescence of the King in the cruelties. *Révolution d'Angleterre*, liv. xi. The testimony of Roger North, if it has any foundation, cannot be applied to this part of the subject. That part of the *Life of James II.* which relates to it is the work only of the anonymous biographer, Mr. Dicconson of Lancashire, and abounds with the grossest mistakes. The assertion of Sheffield, Duke of Buckingham, in the "Account of the Revolution," that Jeffreys disobeyed James's orders, is disproved by the correspondence already quoted. There is, on the whole, no colour for the assertion of Macpherson, i. 453, or for the doubts of Dalrymple.

^f Baril. au Roi, 4-14 Feb. 1686. Fox MSS. i. 106.

army, being brought up to London, was admitted to an interview with the King, who offered to spare him if he would promise to live quietly. He answered, that his principles had been and still were "republican," believing that form of government to be the best; that he was an old man, whose life was as little worth asking as it was worth giving: an answer which so displeased the King, that Holmes was removed to Dorchester, where he suffered death with fortitude and piety.^a

The proceedings on the circuit seem, indeed, to have been so exclusively directed by the King and the Chief Justice, that even Lord Sunderland, powerful as he was, could not obtain the pardon of one delinquent. Yet the case was favourable, and it deserves to be shortly related, as characteristic of the times. Lord Sunderland interceded repeatedly^b with Jeffreys for a youth named William Jenkins, who was executed^c in spite of such powerful solicitations. He was the son of an eminent Non-conformist clergyman, who had recently died in Newgate after a long imprisonment, inflicted on him for the performance of his clerical duties. Young Jenkins distributed mourning rings, on which was inscribed, "William Jenkins, murdered in Newgate." He was in consequence imprisoned in the gaol of Ilchester; and, being released by Monmouth's army, he joined his deliverers against his oppressors.

Vain attempts have been made to exculpate James, by throwing part of the blame of these atrocities upon Pollexfen, an eminent Whig lawyer, who was leading counsel in the prosecution;^d a wretched employment, which he probably owed, as a matter of course, to his rank as senior King's counsel on the circuit. His silent acquiescence in the illegal proceedings against Mrs. Lisle must, indeed, brand his memory with indelible infamy. But, from the King's perfect knowledge of the circumstances of that case, it seems to be evident that Pollexfen's interpositions would have been unavailing: and the subsequent proceedings were carried on with such utter disregard of the forms, as well as the substance of jus-

^a Lord Lonsdale's Memoir, 12. Calendar for Dorsetshire, Bloody Assizes. The account of Col. Holmes by the anonymous biographer (*Life*, ii. 43.) is contradicted by all these authorities. It is utterly improbable, and is not more honourable to James than that here adopted.

^b Lord Sunderland to Lord Jeffreys, 12th Sept. 1685. State Paper Office.

^c At Taunton, 30th Sept. Locke's *Western Rebellion*, p. 2.

^d *Life of James II.*, vol. ii. p. 44, 45.

tice, that counsel had probably no duty to perform, and no opportunity to interfere.

To these facts may be added, what, without such preliminary evidence, would have been of little weight, the dying declaration of Jeffreys himself, who, a few moments before he expired, said to Dr. Scott, an eminent divine who attended him in the Tower, "Whatever I did then I did by express orders; and I have this farther to say for myself, that I was not half bloody enough for him who sent me thither."^a

Other trials occurred under the eye of James in London, where, according to an ancient and humane usage, no sentence of death is executed till the case be laid before the King in person, that he may determine whether there be any room for mercy. Mr. Cornish, an eminent merchant, charged with a share in the Rye House plot, was apprehended, tried, and executed within the space of ten days; the Court having refused him the time which he alleged to be necessary to bring up a material witness.^b Colonel Rumsey, the principal witness for the crown, owned that on the trial of Lord Russell he had given evidence which directly contradicted his testimony against Cornish. This avowal of perjury did not hinder the conviction and execution. But the scandal was so great, that James was obliged, in a few days, to make a tardy reparation for the precipitate injustice of his judges. The mutilated limbs of Cornish were restored to his relations, and Rumsey was confined for life to St. Nicholas's Island at Plymouth;^c a place of illegal imprisonment, still kept up in defiance of the Habeas Corpus Act. This virtual acknowledgment by the King of the falsehood of Rumsey's testimony assumes an importance in history, when it is considered as a proof of the perjury of one of the two witnesses against Lord Russell, the man of most unspotted virtue who ever suffered on an English scaffold.

Ring, Fernley, and Elizabeth Gaunt, persons of humble condition in life, were tried on the same day with Cornish, for harbouring some fugitives from Monmouth's army. One of the persons to whom Ring afforded shelter was his near kinsman. Fernley was

^a Speaker Onslow's Note on Burnet. Burn. iii. 61. Oxford ed. 1823. Onslow received this information from Sir J. Jekyll, who heard it from Lord Somers, to whom it was communicated by Dr. Scott. The account of Tutchins, who stated that Jeffreys had made the same declaration to him in the Tower, is thus confirmed by indisputable evidence.

^b State Trials, xi. 382.

^c Narcissus Luttrell, 19th April 1686.

convicted on the sole evidence of Burton, whom he concealed from the search of the public officers. When a witness was about to be examined for Fernley, the Court allowed one of their own officers to cry out that the witness was a Whig; while one of the judges, still more conversant with the shades of party, sneered at another of his witnesses as a trimmer. When Burton was charged with being an accomplice in the Rye House plot, Mrs. Gaunt received him, supplied him with money, and procured him a passage to Holland. After the defeat of Monmouth, with whom he returned, he took refuge in the house of Fernley, where Mrs. Gaunt visited him, again supplied him with money, and undertook a second time to save his life, by procuring the means of again escaping into Holland. When Burton was apprehended, the prosecutors had their choice, if a victim were necessary, either of proceeding against Burton, whom they charged with open rebellion and intended assassination, or against Mrs. Gaunt, whom they could accuse only of acts of humanity and charity forbidden by their laws. They chose to spare the wretched Burton, in order that he might swear away the lives of others for having preserved his own. Eight judges, of whom Jeffreys was no longer one, sat on these deplorable trials. Roger North, known as a contributor to our history, was an active counsel against the benevolent and courageous Mrs. Gaunt. William Penn was present when she was burnt alive,^a and having familiar access to James, is likely to have related to him the particulars of that and of the other executions at the same time. At the stake, she disposed the straw around her, so as to shorten her agony by a strong and quick fire, with a composure which melted the spectators into tears. She thanked God that he had enabled her to succour the desolate; that the blessing of those who were ready to perish came upon her; and that, in the act for which she was doomed by men to destruction, she had obeyed the sacred precepts which commanded her to hide the outcast, and not to betray him that wandereth. Thus was this poor and uninstructed woman supported under a death of cruel torture, by the lofty consciousness of suffering for righteousness, and by that steadfast faith in the final triumph of justice which can never visit the last moments of the oppressor.

The dying speeches of the prisoners executed in London were

^a Clarkson's Life of Penn, i. 448. Burnet.

suppressed, and the outrages offered to the remains of the dead were carried to an unusual degree.^a The body of Richard Rumbold, who had been convicted and executed at Edinburgh, under a Scotch law, was brought up to London. The sheriffs of London were commanded by a royal warrant, to set up one of the quarters on one of the gates of the city, and to deliver the remaining three to the sheriff of Hertford, who was directed by another warrant to place them at or near Rumbold's late residence at the Rye House;^b impotent but studied outrages, which often manifest more barbarity of nature than do acts of violence to the living.

The chief restraint on the severity of Jeffreys seems to have arisen from his rapacity. Contemporaries of all parties agree that there were few gratuitous pardons, and that wealthy convicts seldom sued to him in vain. Kiffin, a Nonconformist merchant, had agreed to give 3,000*l.* to a courtier for the pardon of two youths of the name of Luson, his grandsons, who had been in Monmouth's army. But Jeffreys guarded his privilege of selling pardons, by unrelenting rigour towards those prisoners from whom mercy had thus been sought through another channel.^c He was attended on his circuit by a buffoon, to whom, as a reward for his merriment in one of his hours of revelry, he tossed the pardon of a rich culprit, expressing his hope that it might turn to good account. But this traffic in mercy was not confined to the Chief Justice. The King pardoned Lord Grey to increase the value of the grant of his life-estate, which had been made to Lord Rochester. The young women of Taunton, who had presented colours and a Bible to Monmouth, were excepted by name from the general pardon, in order that they might purchase separate pardons. To aggravate this indecency, the money to be thus extorted from them was to be granted to persons of their own sex,—the queen's maids of honour; and it must be added with regret, that William Penn, sacrificing other objects to the hope of obtaining the toleration of his religion from the King's favour, was appointed an agent for the maids of honour, and submitted to receive instructions "to make the most advantageous composition he could in their behalf."^d The Duke of

^a Narcissus Luttrell, 16th Nov. 1685.

^b Warrants, 27th and 28th Oct. 1685. State Paper Office. One quarter was to be put up at Aldgate; the remaining three at Hoddesdon, the Rye, and Bishop's Stortford.

^c Kiffin's Memoirs, 54. ed. 1823. (Answer of Kiffin to James, *ibid.* 159.)

^d Lord Sunderland to William Penn, 13th Feb. 1686. State Paper Office.

Somerset in vain attempted to persuade Sir Francis Warre, a neighbouring gentleman, to obtain 7,000*l.* from the young women, without which, he said, the maids of honour were determined to prosecute them to outlawry. Roger Hoare, an eminent trader of Bridgewater, saved his life by the payment of 1,000*l.* to the maids of honour; but he was kept in suspense respecting his pardon till he came to the foot of the gallows, for no other conceivable purpose than that of extorting the largest possible sum. This delay caused the insertion of his execution in the first narratives of these events. But he lived to take the most just revenge on tyrants, by contributing, as representative in several parliaments for his native town, to support that free government which prevented the restoration of tyranny.

The same disposition was shown by the King and his ministers in the case of Mr. Hampden, the grandson of him who, forty years before, had fallen in battle for the liberties of his country. Though this gentleman had been engaged in the consultations of Lord Russell and Mr. Sidney, yet there being only one witness against him, he was not tried for treason, but was convicted of a misdemeanor, and on the evidence of Lord Howard condemned to pay a fine of 40,000*l.* His father being in possession of the family estate, he remained in prison till after Monmouth's defeat, when he was again brought to trial for the same act as high treason, under pretence that a second witness had been discovered.^a It had been secretly arranged, that if he pleaded guilty he should be pardoned on paying a large sum of money to two of the King's favourites. At the arraignment, both the Judges and Mr. Hampden performed the respective parts which the secret agreement required, he humbly entreating their intercession to obtain the pardon which he had already secured by more effectual means; they extolling the royal mercy, and declaring that the prisoner, by his humble confession, had taken the best means of qualifying himself to receive it. The result of this profanation of the forms of justice and mercy was, that Mr. Hampden was in a few months allowed to reverse his attainder, on payment of a bribe of 6,000*l.* to be divided between Jeffreys and Father Petre, the two guides of the King in the performance of his duty to God and his people.^b

^a State Trials, xi. 479.

^b Lords' Journals, 20th Dec. 1689. This document has been overlooked by all historians, who, in consequence, have misrepresented the conduct of Mr. Hampden.

Another proceeding, of a nature still more culpable, showed the same union of mercenary with sanguinary purposes in the King and his ministers. Prideaux, a gentleman of fortune in the west of England, was apprehended on the landing of Monmouth, for no other reason than that his father had been attorney-general under the Commonwealth and the Protectorate. Jeffreys, actuated here by personal motives, employed agents through the prisons of the west to discover evidence against Prideaux. The lowest prisoners were offered their lives, and a sum of 500*l.* if they would give evidence against him. Such, however, was the inflexible morality of the Nonconformists, who formed the bulk of Monmouth's adherents, that they remained unshaken by these offers, amidst the military violence which surrounded them, and in spite of the judicial rigours which were to follow. Prideaux was enlarged. Jeffreys himself, however, was able to obtain some information, though not upon oath, from two convicts under the influence of the terrible proceedings at Dorchester.^a Prideaux was again apprehended. The convicts were brought to London; and one of them was conducted to a private interview with the Lord Chancellor, by Sir Roger l'Es-trange, the most noted writer in the pay of the court. Prideaux, alarmed at these attempts to tamper with witnesses, employed the influence of his friends to obtain his pardon. The motive for Jeffreys's unusual activity was then discovered. Prideaux's friends were told that nothing could be done for him, as "the King had given him" (the familiar phrase for a grant of an estate either forfeited or about to be forfeited) to the Chancellor, as a reward for his services in the west. On application to one Jennings, the avowed agent of the Chancellor for the sale of pardons, it was found that Jeffreys, unable to procure evidence on which he could obtain the whole of Prideaux's large estates by a conviction, had now resolved to content himself with a bribe of 10,000*l.* for the deliverance of a man so innocent, that by the formalities of law, perverted as they then were, the Lord Chancellor could not effect his destruction. Payment of so large a sum was at first resisted; but to subdue this contumacy, Prideaux's friends were forbidden to have access to him in prison, and his ransom was raised to 15,000*l.* The money was then publicly paid by a banker to the Lord Chancellor of England by name. Even in the administration of the iniquitous

^a Sunderland to Jeffreys, 14th Sept. 1685. State Paper Office.

laws of confiscation, there are probably few instances where, with so much premeditation and effrontery, the spoils of an accused man were promised first to the judge, who might have tried him, and afterwards to the Chancellor who was to advise the King in the exercise of mercy.^a

Notwithstanding the perjury of Rumsey in the case of Cornish, a second experiment was made on the effect of his testimony by producing him, together with Lord Grey and one Saxton, as a witness against Lord Brandon on a charge of treason.^b The accused was convicted, and Rumsey was still allowed to correspond confidentially with the Prime Minister,^c to whom he even applied for money. But when the infamy of Rumsey became notorious, when Saxton had perjured himself on the subsequent trial of Lord Delamere, it was thought proper to pardon Lord Brandon, against whom no testimony remained but that of Lord Grey, who, when he made his confession, is said to have stipulated that no man should be put to death on his evidence. But Brandon was not enlarged on bail till fourteen months, nor was his pardon completed till two years after his trial.^d

The only considerable trial which remained was that of Lord Delamere, before the Lord Steward (Jeffreys) and thirty peers. Though this nobleman was obnoxious and formidable to the court, the proof of the falsehood and infamy of Saxton, the principal witness against him, was so complete, that he was unanimously acquitted; a remarkable and almost solitary exception from the prevalent proceedings of courts of law at that time, arising partly from a proof of the falsehood of the charge more clear than can often be expected, partly perhaps from the fellow-feeling of the judges with the prisoner, and from the greater reproach to which an unjust judgment exposes its authors, when in a conspicuous station.

The administration of justice in state prosecutions is one of the surest tests of good government. The judicial proceedings which have been thus carefully and circumstantially related afford a specimen of those evils from which England was delivered by the Revolution. As these acts were done with the aid of juries, and without the censure of parliament, they also afford a fatal proof that

^a Commons' Journals, 1st May, 1689.

^b Narcissus Luttrell, 25th Nov. 1685; which, though very short, is more full than any published account of Lord Brandon's trial.

^c Rumsey to Lord Sunderland, Oct. 1685, and Jan. 1686. State Paper Office.

^d Narcissus Luttrell, Jan. and Oct. 1687.

judicial forms and constitutional establishments may be rendered un-availing by the subserviency or the prejudices of those who are appointed to carry them into effect. The wisest institutions may become a dead letter, and may even, for a time, be converted into a shelter and an instrument of tyranny, when the sense of justice and the love of liberty are weakened in the minds of a people.

CHAPTER II.

Dismissal of Halifax.—Meeting of Parliament.—Debates on the Address.—Prorogation of Parliament.—Habeas Corpus Act.—State of the Catholic Party.—Character of the Queen.—Of Catherine Sedley.—Attempt to support the dispensing Power by a Judgment of a Court of Law.—*Godden v. Hales*.—Consideration of the Arguments.—Attack on the Church.—Establishment of the Court of Commissioners for Ecclesiastical Causes.—Advancement of Catholics to Offices.—Intercourse with Rome.

THE general appearance of submission which followed the suppression of the revolt, and the punishment of the revolters, encouraged the King to remove from office the Marquis of Halifax, with whose liberal opinions he had recently as well as early been dissatisfied, and whom he suffered to remain in place at the accession, only as an example that old opponents might atone for their offences by compliance. A different policy was adopted in a situation of more strength. As the King found that Halifax would not comply with his projects, he determined to dismiss him before the meeting of parliament, an act of vigour which it was thought would put an end to division in his counsels, and prevent discontented ministers from countenancing a resistance to his measures. When he announced this resolution to Barillon, he added, that “his design was to obtain a repeal of the Test and Habeas Corpus Acts, of which the former was destructive of the Catholic religion, and the other of the royal authority; that Halifax had not the firmness to support the good cause, and that he would have less power of doing harm if he were disgraced.”^b

^a Barillon au Roi, 24th February, (5th March), 1685. Fox, App. XIV.

^b Barillon au Roi, 10 (20) October, 1685. Fox, App. CXXI.

James had been advised to delay the dismissal till after the session, that the opposition of Halifax might be moderated, if not silenced, by the restraints of high office; but he thought that his authority would be more strengthened, by an example of a determination to keep no terms with any who did not show an unlimited compliance with his wishes. "I do not suppose," said the King to Barillon, with a smile, "that the King your master will be sorry for the removal of Halifax. I know that it will mortify the ministers of the allies." Nor was he deceived in either of these respects. The news was received with satisfaction by Louis, and with dismay by the ministers of the empire, of Spain, and of Holland, who lost their only advocate in the councils of England:^a it excited wonder and alarm among those Englishmen who were zealously attached to their religion and liberty.^b Though Lord Halifax had no share in the direction of public affairs since the accession,^c his removal was an important event in the eye of the public, and gave him a popularity which he preserved by independent and steady conduct during the sequel of James's reign.

It is remarkable that, on the meeting of parliament, little notice was taken of the military and judicial excesses in the west. Sir Edward Seymour applauded the punishment of the rebels, and Waller alone, a celebrated wit, an ingenious poet, the father of parliamentary oratory, and one of the refiners of the English language, though now in his eightieth year, arraigned the violences of the soldiery with a spirit still unextinguished. He probably intended to excite a discussion which might gradually have reached the more deliberate and inexcusable faults of the Judges. But the opinions and policy of his audience defeated his generous purpose. The prevalent party looked with little disapprobation on severities which fell on Nonconformists and supposed Republicans. Many might be base enough to feel little compassion for sufferers in the humbler classes of society; some were probably silenced by a pusillanimous dread of being said to be the abettors of rebels; and all must have been, in some measure, influenced by an undue and excessive degree of that wholesome respect for judicial proceedings, which is one of the characteristic virtues of a free country. This disgraceful silence is, perhaps, somewhat

^a Barillon, 25th October (5th November), 1685.

^b Reresby. Barillon.

^c Barillon, 18th February (1st March), 1685.

extenuated by the slow circulation of intelligence at that period, by the censorship which imposed silence on the press, or enabled the ruling party to circulate falsehood through its means, and by the eagerness of all parties for a discussion of the alarming tone and principles of the speech from the throne.

The King began by observing that the late events must convince every one that the militia was not sufficient, and that nothing but a good force of well-disciplined troops, in constant pay, could secure the government against enemies abroad and at home: that for this purpose he had increased their number, and now asked a supply for the great charge of maintaining them. "Let no man take exception," he continued, "that there are some officers in the army not qualified, according to the late tests, for their employments; the gentlemen are, I must tell you, most of them well known to me; they have approved the loyalty of their principles by their practice; and I will deal plainly with you, that after having had the benefit of their services in such a time of need and danger, I will neither expose them to disgrace, nor myself to the want of them, if there should be another rebellion to make them necessary to me." Nothing but the firmest reliance on the submissive disposition of the parliament could have induced James to announce to them his determination to bid defiance to the laws. He probably imagined that the boldness with which he asserted the power of the Crown would be applauded by many, and endured by most of the members of such a parliament. But never was there a more remarkable example of the use of a popular assembly, however ill composed, in extracting from the disunion, jealousy, and ambition of the victorious enemies of liberty, a new opposition to the dangerous projects of the crown. The vices of politicians were converted into an imperfect substitute for virtue; and though the friends of the constitution were few and feeble, the inevitable divisions of their opponents in some degree supplied their place.

The disgrace of Lord Halifax disheartened and even offended some supporters of government. Sir Thomas Clarges, a determined Tory, was displeased at the merited removal of his nephew, the Duke of Albemarle, from the command of the army against Monmouth. Nottingham, a man of talent and ambition, more a Tory than a courtier, was dissatisfied with his own exclusion from office, and jealous of Rochester's ascendancy over the church party. His

relation Finch, though solicitor-general, took a part against the court. The projects of the crown were thwarted by the friends of Lord Danby, who had forfeited all hopes of the King's favour by communicating the popish plot to the House of Commons, and by his share in the marriage of the Princess Mary with the Prince of Orange. Had the King's first attack been made on civil liberty, the opposition might have been too weak to embolden all these secret and dispersed discontents to display themselves, and to combine together. But the attack on the exclusive privileges of the Church of England, while it alienated the main force of the crown, touched a point on which all the subdivisions of discontented Tories professed to agree, and afforded them a specious pretext for opposing the King, without seeming to deviate from their ancient principles. They were gradually disposed to seek or accept the assistance of the defeated Whigs, and the names of Sir Richard Temple, Sir John Lowther, Sergeant Maynard, and Mr. Hampden, appear at last more and more often in the proceedings. Thus admirably does a free constitution not only command the constant support of the wise and virtuous, but often compel the low jealousies and mean intrigues of disappointed ambition to contend for its preservation. The consideration of the King's speech was postponed for three days, in spite of a motion for its immediate consideration by Lord Preston, a secretary of state.

In the committee of the whole House on the speech, which occurred on the 12th, two resolutions were adopted, of which the first was friendly, and the second was adverse, to the government. It was resolved that a supply be granted to his Majesty, and that a bill be brought in to render the militia more useful. The first of these propositions has seldom been opposed since the government has become altogether dependent on the annual grants of parliament; it was more open to debate on a proposal for extraordinary aid, and it gave rise to some important observations. Clarges declared he had voted against the exclusion, because he did not believe its supporters when they foretold that a popish king would have a popish army. "I am afflicted greatly at this breach of our liberties; what is struck at here is our all." Sir Edward Seymour observed, with truth, that to dispense with the test was to release the King from all law. Encouraged by the bold language of these Tories, old Serjeant Maynard said, that the supply was asked for the maintenance of an army which was

to be officered against a law made, not for the punishment of Papists, but for defence of Protestants. The accounts of these important debates are so scanty, that we may, without much presumption, suppose the venerable lawyer to have at least alluded to the recent origin of the test, to which the King had disparagingly adverted in his speech, as the strongest reason for its strict observance. Had it been an ancient law, founded on general considerations of policy, it might have been excusable to relax its rigour from a regard to the circumstances and feelings of the King. But having been recently provided as a security against the specific dangers apprehended from his accession to the throne it was to the last degree unreasonable to remove or suspend it at the moment when those very dangers had reached their highest pitch. Sir Richard Temple spoke warmly against standing armies, and of the necessity of keeping the crown dependent on parliamentary grants. He proposed the resolution for the improvement of the militia, with which the courtiers concurred. Clarges moved, as an amendment on the vote of supply, the words, "for the additional forces," to throw odium on the ministerial vote; but this adverse amendment was negatived by a majority of seventy in a house of three hundred and eighty-one. On the 13th, the ministers proposed to instruct the committee of the whole House on the King's speech, to consider, first, the paragraph of the speech which contained the demand of supply. They were defeated by a majority of a hundred and eighty-three to a hundred and eighty-two; and the committee resolved to take into consideration, first, the succeeding paragraph, which related to the officers illegally employed.^a

On the 16th, an address was brought up from the committee, setting forth the legal incapacity of the Catholic officers, which could only be removed by act of parliament, offering to indemnify them from the penalties they had incurred, but, as their continuance would be taken to be a dispensing with the law, praying that the King would be pleased not to continue them in their

^a "The Earl of Middleton, then a secretary of state, seeing many go out upon the division against the court who were in the service of government, went down to the bar and reproached them to their faces for voting as they did. He said to a Captain Kendal, 'Sir, have you not a troop of horse in his Majesty's service?' 'Yes, Sir,' said the other; 'but my brother died last night, and has left me seven hundred pounds a year.' This I had from my uncle, the first Lord Onslow, who was then a member of the House, and present. This incident upon one vote very likely saved the nation." Note of Speaker Onslow on Burnet, iii. 6. Oxford ed. 1823.

employments. The House, having substituted the milder words, "that he would give such directions therein as that no apprehensions or jealousies might remain in the hearts of his subjects," unanimously adopted the address. A supply of seven hundred thousand pounds was voted; a medium between twelve hundred thousand required by ministers, and two hundred thousand proposed by the most rigid of their opponents. The danger of standing armies to liberty, and the wisdom of such limited grants as should compel the crown to recur soon and often to the House of Commons, were the general arguments used for the smaller sum. The courtiers urged the example of the late revolt, the superiority of disciplined troops over an inexperienced militia, the necessity arising from the like practice of all other states, and the revolution in the art of war, which had rendered proficiency in it unattainable, except by those who studied and practised it as the profession of their lives. The most practical observation was that of Sir William Trumbull, who suggested that the grant should be annual, to make the existence of the army annually dependent on the pleasure of parliament. The ministers, taking advantage of the secrecy of foreign negotiations, ventured to assert that a formidable army in the hands of the King was the only check on the ambition of France, though they knew that their master was devoted to Louis XIV., to whom he had been recently suing for a secret subsidy in the most abject language of supplication.^a When the address was presented, the King answered, with a warmth and anger very unusual on such occasions,^b that "he did not expect such an address; that he hoped his reputation would have inspired such a confidence in him; but that, whatever they might do, he should adhere to all his promises." The reading of this answer in the House the next day produced a profound silence for some minutes. A motion was made by Mr. Wharton to take it into consideration, on which Mr. John Cooke^c said, "We are Englishmen, and ought not to be frightened from our duty by a few hard words." Both these gentlemen were Whigs, who were encouraged to speak freely by the symptoms

^a Barillon au Roi, 6 (16) July, 1685. Fox, Appendix cv. "Le Roi me dit que si V. M. avait quelque chose à désirer de lui, il irait au devant de tout ce qui peut plaire à V. M.; qu'il avait été élevé en France, et mangé le pain de V. M.; *que son cœur était Français*." Only six weeks before, James told his parliament that "he had a *true English heart*." King's Speech, 30th May, 1685.

^b Reresby, 218. Sir J. Reresby, being a member of the House, was probably present.

^c Commons' Journals, 18th Nov. 1685.

of vigour which the House had shown; but they soon discovered that they had mistaken the temper of their colleagues; for the majority, still faithful to the highest pretensions of the crown whenever the Established church was not adverse to them, committed Mr. Cooke to the Tower, though he disavowed all disrespectful intention, and begged pardon of the King and the House. Notwithstanding the King's answer, they proceeded to provide means of raising the supply, and they resumed the consideration of a bill for the naturalisation of French Protestants; a tolerant measure, of which the zealous partisans of the church had first resisted the introduction,^a and afterwards destroyed the greater part of the benefit by confining it to those who should conform to the Establishment.^b The motion for considering the King's speech was not pursued,^c which, together with the proceeding on supply, seemed to imply a submission to the menacing answer of James, arising principally from the subservient character of the majority; but, probably, in some, from a knowledge of the vigorous measures about to be proposed in the House of Lords. At the opening of the session, that House had contented themselves with general thanks to the King for his speech, without any allusion to its contents. Jeffreys, in delivering the King's answer, affected to treat this parliamentary courtesy as an approval of the substance of the speech. Either on that or on the preceding occasion, it was said by Lord Halifax or Lord Devonshire (for it is ascribed to both), "that they had now more reason than ever to give thanks to his Majesty for having dealt so plainly with them." The House, not called upon to proceed as the other House were by the demand of supply, continued inactive for a few days, till they were roused by the imperious answer of the King to the Commons. On the 19th, the day of the answer, Lord Devonshire moved to take into consideration the dangerous consequences of an army kept up against law. He was supported by Halifax, by Nottingham, and by Anglesea, who, in a very advanced age, still retained that horror of the yoke of Rome, which he had found means to reconcile with frequent acquiescence in the civil

^a Commons' Journals, 16th June, 1685.

^b Ibid. 1st July, 1685.

^c Ibid. 19th Nov. 1685.

^d Barillon, 23 Nov. (3 Dec.) 1685 Fox MSS., i. 78. Lords' Journals, 19th Nov. 1685. This is the only distinct narrative of the proceedings of this important and decisive day. Burnet was then on the Continent, but I have endeavoured to combine his account with that of Barillon.

policy of Charles and James. Lord Mordaunt, more known as Earl of Peterborough, signalised himself by the youthful spirit of his speech. "Let us not," he said, "like the House of Commons, speak of jealousy and distrust : ambiguous measures inspire these feelings. What we now see is not ambiguous. A standing army is on foot, filled with officers, who cannot be allowed to serve without overthrowing the laws. To keep up a standing army when there is neither civil nor foreign war, is to establish that arbitrary government which Englishmen hold in such just abhorrence." Compton, Bishop of London, a prelate of noble birth and military spirit, who had been originally an officer in the Guards, spoke for the motion in the name of all his brethren on the episcopal bench, who considered the security of the church as involved in the issue of the question. Compton was influenced not only by the feelings of his order, but by his having been the preceptor of the Princesses Mary and Anne, who were deeply interested in the maintenance of the Protestant church, as well as conscientiously attached to it.

Jeffreys was the principal speaker on the side of the court. He urged the thanks already voted as an approval of the speech. His scurrilous invectives, and the tones and gestures of menace with which he was accustomed to overawe juries, roused the indignation instead of commanding the acquiescence of the Lords. As this is a deportment which cuts off all honourable retreat, the contemporary accounts are very probable which represent him as sinking at once from insolence to meanness.^a His defeat must have been signal ; for, in an unusually full ^b House of Lords, after so violent an opposition by the Chancellor of England, the motion for taking the address into consideration was, on the 23d, carried without a division.

On the next day the King prorogued the parliament, which never again was assembled but for the formalities of successive prorogations, by which its legal existence was prolonged for two years. By this prorogation he lost the subsidy of seventy thousand pounds.

^a Burnet.

^b The attendance was partly caused by a call of the House, ordered for the trials of Lords Stamford and Delamere. There were present on the 19th November, seventy-five temporal and twenty spiritual lords. On the call, two days before, it appeared that forty were either minors, abroad, or confined by sickness : six had sent proxies ; two were prisoners for treason ; and thirty absent without any special reason, of whom the great majority were disabled as Catholics : so that very few peers, legally and physically capable of attendance, were absent.

But his situation had become difficult. Though money was employed to corrupt some of the opponents of his measures, the opposition was daily gaining strength.^a By rigorous economy, by diverting parliamentary aids from the purposes for which they were granted, the King had the means of maintaining the army, though his ministers had solemnly affirmed that he had not.^b He was full of maxims for the necessity of firmness and the dangers of concession, which were mistaken by others, and perhaps by himself, for proofs of vigorous character. He had advanced too far to recede with tolerable dignity. The energy manifested by the House of Lords would have compelled even the submissive Commons to co-operate with them, which might have given rise to a more permanent coalition of the high church party with the friends of liberty. A suggestion had been thrown out in the Lords to desire the opinion of the judges on the right of the King to commission the Catholic officers;^c and it was feared that the terrors of impeachment might, during the sitting of parliament, draw an opinion from these magistrates against the prerogative, which might afterwards prove irrevocable. To reconcile parliament to the officers became daily more hopeless. To sacrifice those who had adhered to the King in a time of need, appeared to be an example dangerous to all his projects, whether of enlarging his prerogative, or of securing, and, perhaps, finally establishing, his religion.

Thus ended the active proceedings of a parliament which, in all that did not concern the church, justified the most sanguine hopes that James could have formed from their submission to the court, as well as attachment to the monarchy. A body of men so subservient as that House of Commons could hardly be brought together by any mode of election or appointment; and James was aware that, by this angry prorogation, he had rendered it difficult for himself for a long time to meet another parliament.^d The session

^a Barillon au Roi, 16 (26) Nov. 1685. Fox, Appendix cxxxv.

^b Barillon au Roi, 3 (13) Dec. 1685. Fox MSS., i. 77. The expenses of the army of Charles II. was 280,000*l.*; that of James was 600,000*l.* The difference of 320,009*l.* was, according to Barillon, thus provided for: 100,000*l.*, the income of James as Duke of York, which he still preserved; 800,000*l.* granted to pay the debts of Charles, which, *as the King was to pay the debts as he thought fit*, would yield for some years 100,000*l.*; 800,000*l.* granted for the navy and the arsenal, on which the King *might proceed slowly, or even do nothing*; 400,000*l.* for the suppression of the rebellion. As these last funds were to come into the exchequer in some years, they were estimated as producing annually more than sufficient to cover the deficiency.

^c Barillon au Roi, 30 Nov. (10 Dec.) 1685. Fox MSS., i. 76.

^d Barillon.

had lasted only eleven days. The eyes of Europe had been anxiously turned toward their proceedings. Louis XIV., not entirely relying on the sincerity of James, was fearful that he might have yielded to the allies or to his people, and instructed Barillon in that case to open a negociation with leading members of the Commons, that they might embarrass the policy of the King, if it became adverse to France.^a Spain and Holland, on the other hand, hoped that any compromise between the King and parliament would loosen the ties that bound the former to France. It was even hoped that he might form a triple alliance with Spain and Sweden, and large sums of money were secretly offered to him to obtain his accession to such an alliance.^b Three days before the meeting of parliament, arrived in London Monsignor d'Adda, a Lombard prelate of distinction, as the known, though then unavowed, minister of the see of Rome,^c who was divided between the interest of the Catholic church of England and the animosity of Innocent XI. against Louis XIV. All these solitudes, and precautions, and expectations, were suddenly dispelled by the unexpected rupture between James and his parliament.

From the temper and opinions of that parliament it is reasonable to conclude, that the King would have been more successful if he had chosen to make his first attack on the Habeas Corpus Act, instead of directing it against the Test. Both these laws were then only of a few years' standing; and he, as well as his brother, held them both in abhorrence. The Test gave exclusive privileges to the Established Church, and was, therefore, dear to the adherents of that powerful body. The Habeas Corpus Act was not then the object of that attachment and veneration which experience of its unspeakable benefits for a hundred and fifty years has since inspired. The most ancient of our fundamental laws had declared the principle that no freeman could be imprisoned without legal authority.^d The immemorial antiquity of the writ of Habeas Corpus,—an order of a court of justice to a gaoler to bring the body of a prisoner before them, that there might be an opportunity of examining whether his apprehension and detention were legal,—seems to prove that this principle was coeval with the law of Eng-

^a Le Roi à Barillon, 9 (19) Nov. 1685. Fox, Appendix cxxxi.

^b Barillon au Roi, 16 (26) Nov. 1685. Fox, Appendix cxxxi.

^c Monsignor d'Adda al Papa, 9 (19) Nov. 1685. D'Adda MSS.

^d Magna Charta, c. 29.

land. In irregular times, however, it had been often violated; and the judges under Charles I. pronounced a judgment,^a which, if it had not been condemned by the great statute called the Petition of Right,^b would have vested in the crown a legal power of arbitrary imprisonment. By the statute which abolished the Star Chamber, the parliament of 1641^c made some important provisions to facilitate deliverance from illegal imprisonment. For eleven years Lord Shaftesbury struggled to obtain a law which should complete the securities of personal liberty;^d and at length that great though not blameless man obtained the object of his labours, and bestowed on his country the most perfect security against arbitrary imprisonment which has ever been enjoyed by any society of men.^e It has banished that most dangerous of all modes of oppression from England. It has effected that great object as quietly as irresistibly; it has never in a single instance been resisted or evaded; and it must be the model of all nations who aim at securing that personal liberty without which no other liberty can subsist. But in the year 1685, it appeared to the predominant party an odious novelty, an experiment untried in any other nation; carried through, in a period of popular frenzy, during the short triumph of a faction hostile to church and state, and by him who was the most obnoxious of all the demagogues of the age. There were then, doubtless, many, perhaps the majority, of the partisans of authority who believed, with Charles and James, that to deprive a government of all power to imprison the suspected and the dangerous, unless there was legal ground of charge against them, was incompatible with the peace of society; and this opinion was the more dangerous because it was probably conscientious.^f In this state of things it may seem singular that James did not first propose the repeal of the Habeas Corpus Act, by which he would have gained the means of silencing opposition to all his other projects. What the fortunate circum-

^a The famous case of commitments "by the special command of the King," which last words the Court of King's Bench determined to be a sufficient cause for detaining a prisoner in custody, without any specification of an offence. State Trials, iii. 1.

^b 3 Car. I. c.

^c 16 Car. I. c. 10.

^d 1668 to 1679. Lords' and Commons' Journals.

^e 31 Car. II. c. 2

^f James retained this opinion till his death. "It was a great misfortune to the people, as well as to the crown, the passing of the Habeas Corpus Act, since it obliges the Crown to keep a greater force on foot to preserve the government, and encourages disaffected, turbulent, and unquiet spirits to carry on their wicked designs: it was contrived and carried on by the Earl of Shaftesbury to that intent." Advice of James II. to his Son. Life, ii. 621.

stances were which pointed his attack against the Test, we are not enabled by contemporary evidence to ascertain. He contemplated that measure with peculiar resentment, as a personal insult to himself, and as chiefly, if not solely, intended as a safeguard against the dangers apprehended from his succession. He considered it as the most urgent object of his policy to obtain a repeal of it, which would enable him to put the administration, and especially the army, into the hands of those who were devoted by the strongest of all ties to his service, whose power, honour, and even safety, were involved in his success. An army composed of Catholics must have seemed the most effectual of all the instruments of power in his hands; and it is no wonder that he should hasten to obtain it. Had he been a lukewarm or only a professed Catholic, an armed force, whose interests were the same with his own, might reasonably have been considered as that which it was in the first place necessary to secure. Charles II., with a loose belief in popery, and no zeal for it, was desirous of strengthening its interests, in order to enlarge his own power. As James was a conscientious and zealous Catholic, it is probable that he was influenced in every measure of his government by religion, as well as ambition: both these motives coincided in their object. His absolute power was the only security for his religion, and a Catholic army was the most effectual instrument for the establishment of absolute power. In such a case of combined motives, it might have been difficult for himself to determine which motive predominated on any single occasion. Sunderland, whose sagacity and religious indifference are alike unquestionable, observed to Barillon, that on mere principles of policy James could have no object more at heart than to strengthen the Catholic religion;^a an observation which, as long as the King himself continued to be a Catholic, seems, in the hostile temper which then prevailed among all sects, to have had great weight.

The best reasons for human actions are often not their true motives; but, in spite of the event, it does not seem difficult to defend the determination of the King on those grounds, merely political, which, doubtless, had a considerable share in producing it. It is not easy to ascertain how far his plans in favour of his religion at that time extended. A great division of opinion

^a Barillon au Roi, 6 (16) July, 1685. Fox, Appendix ciii.

prevailed among the Catholics themselves on this subject. The most considerable and opulent laymen of that communion, willing to secure moderate advantages, and desirous to employ their superiority with such forbearance as might provoke no new severities under a Protestant successor, would have been content with a repeal of the penal laws, without insisting on an abrogation of the Test. The friends of Spain and Austria, with all the enemies of the French connexion, inclined strongly to a policy which, by preventing a rupture between the King and parliament, might enable, and, perhaps, dispose him to espouse the cause of European independence. The sovereign pontiff himself was of this party; and the wary politicians of the court of Rome advised their English friends to calm and slow proceedings, though the papal minister, with a circumspection and reserve required by the combination of a theological with a diplomatic character, abstained from taking any open part in the division, where it would have been hard for him to escape the imputation of being either a lukewarm Catholic or an imprudent counsellor. The Catholic lords who were ambitious of office, the Jesuits, and especially the King's confessor, together with all the partisans of France, supported extreme counsels better suited to the temper of James, whose choice of political means was guided by a single maxim, that violence, which he confounded with vigour, was the only safe policy for an English monarch. Their most specious argument was the necessity of taking such decisive measures to strengthen the Catholics during the King's life as would effectually secure them against the hostility of his successor.^a The victory gained by this party over the moderate Catholics, as well as the Protestant Tories, was rendered more speedy and decisive by some intrigues of the court, which have not hitherto been fully known to historians. Mary of Este, the consort of James, was married at the age of fifteen; and had been educated in such gross ignorance, that she never had heard of the name of England until it was made known to her on occasion of her marriage. She was trained to a rigorous observance of all the practices of her religion, which sunk more deeply into her heart, and more constantly influenced her conduct, than was usual among Italian princesses. On her arrival in Eng-

^a Barillon au Roi, 2 (12) November. Fox, Appendix cxxix. Bar. au Roi, 3 (31) December. Fox MSS., i. 78. Burnet, i. 662. The coincidence of Burnet with the more ample account of Barillon is an additional confirmation of the substantial accuracy of the honest prelate.

land, she betrayed a childish aversion to James, which was quickly converted into passionate fondness. But neither her attachment nor her beauty could fix the heart of that inconstant prince, who reconciled a warm zeal for his religion with an habitual indulgence in those pleasures which it most forbids. Her life was embittered by the triumph of mistresses, and by the frequency of her own perilous and unfruitful pregnancies. Her most formidable rival, at the period of the accession, was Catherine Sedley; a woman of few personal attractions^a, who inherited the wit and vivacity of her father, Sir Charles Sedley, which she unsparingly exercised on the priests and opinions of her royal lover. Her character was frank, her deportment bold, and her pleasantries more amusing than refined.^b Soon after the accession, James was persuaded to relinquish his intercourse with her; and, though she retained her lodgings in the palace, he did not see her for several months. The connexion was then secretly renewed, and, in the first fervour of a revived passion, the King offered to give her the title of Countess of Dorchester. She declined this invidious distinction; assuring him that, by provoking the anger of the Queen and of the Catholics, it would prove her ruin. He, however, insisted; and she yielded, upon condition that, if he was ever again prevailed upon to dissolve their connexion, he should come to her to announce his determination in person.^c The title produced the effects she had foreseen.

Mary, proud of her beauty, still enamoured of her husband, and full of religious horror at the vices of Mrs. Sedley, gave way to the most clamorous excesses of sorrow and anger at the promotion of her competitor. She spoke to the King with a violence for which she long afterwards reproached herself as a grievous fault. At one time she said to him, "Is it possible that you

^a "Elle a beaucoup d'esprit et de la vivacité, mais elle n'a plus aucune beauté, et est d'une extrême maigreur." Barillon, 7 Février, 1686. The insinuation of decline is somewhat singular, as her father was then only forty-six.

^b These defects are probably magnified in the verses of Lord Dorset:—

"Dorinda's sparkling wit and eyes
United, cast too fierce a light,
Which blazes high, but quickly dies;
Pains not the heart, but hurts the sight.

"Love is a calmer, gentler joy:
Smooth are his looks, and soft his pace;
Her Cupid is a blackguard boy,
That runs his link full in your face."

^c Suà maestà, à persuasione de qualche mal consigliere, fosse disposta a dare il titolo di Contessa a una dama chiamata Sideley, la quale aveva fama di poco honesta, et di non haver la custodita col Duca di York." D'Adda al Card. Cybo. 1 Febr. 1686.

are ready to sacrifice a crown for your faith, and cannot discard a mistress for it? Will you for such a passion lose the merit of your sacrifices?" On another occasion she exclaimed, "Give me my dowry, make her Queen of England, and let me never see her more."^a Her transports of grief sometimes betrayed her to foreign ministers; and she neither ate nor spoke with the King at the public dinners of the court.^b The zeal of the Queen for the Catholic religion, and the profane jests of Lady Dorchester against its doctrines and ministers, had rendered them the leaders of the Popish and Protestant parties at court. The Queen was supported by the Catholic clergy, who, with whatever indulgence their order had sometimes treated regal frailty, could not remain neuter in a contest between an orthodox Queen and an heretical mistress. These intrigues early mingled with the designs of the two ministers, who still appeared to have equal influence in the royal counsels. Lord Rochester, who had felt the decline of the King's confidence from the day of Monmouth's defeat, formed the project of supplanting Lord Sunderland, and of recovering his ascendant in public affairs through the favour of the mistress. Having lived in a court of mistresses, and maintained himself in office by compliance with them,^c he thought it unlikely that wherever a favourite mistress existed she could fail to triumph over a queen. As the brother of the first Duchess of York, Mary did not regard him with cordiality. As the leader of the church party, he was still more obnoxious to her. He and his lady were the principal counsellors of the mistress. He secretly advised the King to confer on her the title of honour, probably to excite the Queen to such violence as might widen the rupture between her and the King. He and his lady declared so openly for her as to abstain for several days, during the heat of the contest, from paying their respects to the Queen; a circumstance much remarked at a time when the custom was still observed, which had been introduced by the companionable humour of Charles, for the principal nobility to appear almost daily at court. Sunderland, already connected with the Catholic favourites, was now more than ever compelled to make common cause with the Queen. His great strength lay in the

^a *Mémoires Histor. de la Reine d'Angleterre*, 1711 and 1712. MSS. formerly in possession of the nuns of Chaillot, since in the Arch. Gén. de la France.

^b Bonrepaux à Seigneley, 7 Février, 1686. Evelyn. i. 584.

^c Carte's Ormond, ii. 553. The old duke, high-minded as he was, commended the prudent accommodation of Rochester.

priests ; but he also called in the aid of Madame Mazarin, a beautiful woman, of weak understanding, but practised in intrigue, who had been sought in marriage by Charles II. during his exile, refused by him after his restoration, and who, on her arrival in England ten years after, failed in the more humble attempt to become his mistress.

The exhortations of the clergy, seconded by the beauty, the affection, and the tears of the Queen, prevailed, after a severe struggle, over the ascendant of Lady Dorchester. James sent Lord Middleton, one of his secretaries of state, to desire that she would leave Whitehall, and go to Holland, to which country a yacht was in readiness to convey her. In a letter written by his own hand, he acknowledged that he violated his promise ; but excused himself by saying, that he was conscious of not possessing firmness enough to stand the test of an interview. She immediately retired to her house in St. James's Square ; and offered to go to Scotland or Ireland, or to her father's estate in Kent ; but protested against going to the Continent, where means might be found of immuring her in a convent for life. She was threatened with being forcibly carried abroad. She appealed to the Great Charter against such an invasion of the liberty of the subject. The contest continued for some time ; and the King's advisers consented that she should go to Ireland, where Rochester's brother was lord lieutenant. She warned the King of his danger, and freely told him, that, if he followed the advice of Catholic zealots, he would lose his crown. She represented herself as the Protestant martyr ; and boasted, many years afterwards, that she had neither changed her religion, like Lord Sunderland, nor even agreed to be present at a disputation concerning its truth, like Lord Rochester.^a After the complete victory of the Queen, Rochester still preserved his place, and affected to represent himself as wholly unconcerned in the affair. Sunderland kept on decent terms with his rival, and dissembled his resentment at the abortive intrigue for his removal. But the effects of it were decisive. It secured the power of Sunderland, rendered the ascendancy of the Catholic counsellors irresistible, gave them a stronger impulse towards violent measures, and struck a blow at the declining credit of Rochester, from which it never recovered. The removal of Halifax was the first step towards the new system of adminis-

^a Halifax MS.

tration; the defeat of Rochester was the second. In the course of these contests, the Bishop of London was removed from the Privy Council for his conduct in the House of Peers; several members of the House of Commons were dismissed from military as well as civil offices for their votes in parliament; and the place of lord president of the council was bestowed on Sunderland, to add a dignity which was then thought wanting to his efficient office of secretary of state.^a

The government now attempted to obtain, by the judgments of courts of law, that power of appointing Catholic officers which parliament had refused to sanction. Instances had occurred in which the crown had dispensed with the penalties of certain laws; and the recognition of his dispensing power, in the case of the Catholic officers, by the judges, appeared to be an easy mode of establishing the legality of their appointments. The King was to grant to every Catholic officer a dispensation from the penalties of the statutes, which, when adjudged to be agreeable to law by a competent tribunal, might supply the place of a repeal of the Test Act. To obtain the judgment, it was agreed that an action for the penalties should be collusively brought against one of these officers, which would afford an opportunity to the judges to determine that the dispensation was legal. The plan had been conceived at an earlier period, since (as has been mentioned) one of the reasons of the prorogation was an apprehension lest the terrors of parliament might obtain from the judges an irrevocable opinion against the prerogative. No doubt seems to have been entertained of the compliance of magistrates, who owed their station to the King, who had recently incurred so much odium in his service, and who were removable at his pleasure.^c He thought it necessary, however, to ascertain their sentiments. His expectations of unanimity were disappointed. Sir J. Jones, who presided at the trial of Mrs. Gaunt; Montague, who had accompanied Jeffreys

^a These intrigues are very fully related by M. Bonrepaux, a French minister of talent, at that time sent on a secret mission to London, in his letters to M. Segne-
lay, and by Barillon in his ordinary communications to the King. Fox MSS. i. 84.
106. The despatches of the French ministers afford a new proof of the good in-
formation of Burnet; but neither he nor Reresby was aware of the connexion of
the intrigue with the triumph of Sunderland over Rochester.

^b Barillon au Roi, 23 Nov. (3 Dec.) 1685. Fox MSS. i. 76. D'Adda a Cybo,
11 Gennajo, 1686:—"In maniera che in contraddittorio giudizio se conosce le cause
fra particolari."

^c "Les juges déclareront qu'il est la prerogative du Roi de dispenser des peines
portées par la loi." Bar. ubi supra.

in his circuit; Sir Job Charlton, a veteran royalist of approved zeal for the prerogative; together with Neville, a baron of the Exchequer; declared their inability to comply with the desires of the King. Jones answered him, with dignity worthy of more spotless conduct:—"I am not sorry to be removed. It is a relief to a man old and worn out as I am. But I am sorry that your Majesty should have expected a judgment from me which none but indigent, ignorant, or ambitious men could give." James, displeased at this freedom, answered, that he would find twelve judges of his opinion. "Twelve judges, Sir," replied Jones, "you may find; but hardly twelve lawyers."

However justly these judges are to be condemned for their former disregard to justice and humanity, they deserve great commendation for having, on this critical occasion, retained their respect for law. James possessed that power of dismissing his judges which Louis XIV. did not enjoy; and he immediately exercised it by removing the uncomplying magistrates, together with two others who held the same obnoxious principles. On the 21st of April, the day before the courts were to assemble in Westminster for their ordinary term, the new judges were appointed, among whom, by a singular hazard, was a brother of the immortal John Milton, named Christopher, then in the seventieth year of his age, who is not known to have had any other pretension except that of having secretly conformed to the Church of Rome.^a Sir Edward Hales, a Kentish gentleman who had been secretly converted to popery at Oxford by his tutor, Obadiah Walker, of University College (himself a celebrated convert), was selected to be the principal actor in the legal pageant for which the bench had been thus prepared. He was publicly reconciled to the Church of Rome on the 11th of November, 1685;^b he was appointed to the command of a regiment on the 28th of the same month, and a dispensation passed the Great Seal on the 9th of January following, to enable him to hold his commission without either complying with the conditions or incurring the penalties of the statute. On the 16th of June, the case was tried in the Court of King's Bench in the form of an action

^a The conversion of Sir Christopher, is, indeed, denied by Dod, the very accurate historian of the English Catholics. Church Hist. iii. 416. To the former concurrence of all contemporaries we may now add that of Evelyn, i. 590, and Narcissus Luttrell. "All the judges," says the latter, "except Mr. Baron Milton, took the oaths in the court of Chancery. But he, it is said, owns himself a Roman Catholic." Diary, 8th June, 1686.

^b Dod, Church Hist. iii. 451.

brought by Godden, the coachman of Sir E. Hales, to recover the penalty granted by the statute to a common informer from his master, for holding a military commission without having taken the oaths or the sacrament. The facts were admitted, the defence rested on the dispensation, and the case turned on its validity. Northey, the counsel for Godden, argued the case so faintly and coldly, that he scarcely dissembled his desire and expectation of a judgment against his pretended client. Sir Edward Herbert, the chief justice, a man of virtue, but without legal experience or knowledge, who had adopted the highest monarchical principles, had been one of the secret advisers of the exercise of the dispensing power: in his court he accordingly treated the validity of the dispensation as a point of no difficulty, but of such importance that it was proper for him to consult all the other judges respecting it. On the 21st of June, after only five days of seeming deliberation had been allowed to a question on the decision of which the liberties of the kingdom at that moment depended, Sir E. Herbert delivered the opinion of all the Judges of England, except Street, who finally dissented from his brethren, in favour of the dispensation. At a subsequent period, indeed, two other judges, Powell and Atkins, affirmed that they had dissented, and another, named Lutebych, declared that he had only assented with limitations.^a But as these magistrates did not protest at the time against Herbert's statement, as they delayed their public dissent until it had become dishonourable, and perhaps unsafe, to have agreed with the majority, no respect is due to their conduct, even if their assertion should be believed. Street, who gained great popularity by his strenuous resistance,^b remained a judge during the whole reign of James; he was not admitted to the presence of King William,^c nor re-appointed after the Revolution; circumstances which, combined with some intimations unfavourable to his general character, suggest a painful suspicion, that the only judge who appeared faithful to his trust was, in truth, the basest of all, and that his dissent was prompted or tolerated by the court, in order to give a false appearance of independence to the acts of the degraded judges.

In shortly stating the arguments which were employed on both

^a Com. Journ. May 18, 1689.

^b "Mr. Justice Street has lately married a wife, with a good fortune, since his opinion on the dispensing power." Nar. Lutt. Oct. 1686.

^c "The Prince of Orange refused to see Mr. J. Street. Lord Coote said he was a very ill man." Lord Clarendon, Diary, 27th December, 1688.

sides of this question, it is not within the province of the historian to imitate the laborious minuteness of a lawyer, nor is it consistent with the faith of history to ascribe reasons to the parties more refined and philosophical than could probably have occurred to them, or influenced the judgment of those whom they addressed. The only specious argument of the advocates of prerogative arose from certain cases in which the dispensing power had been exercised by the crown, and apparently sanctioned by courts of justice. The case chiefly relied on was a dispensation from the ancient laws respecting the annual nomination of sheriffs; the last of which, passed in the reign of Henry VI.,^a subjected sheriffs, who continued in office longer than a year, to certain penalties, and declared all patents of a contrary tenor, even though they should contain an express dispensation, to be void. Henry VII., in defiance of this statute, had granted a patent to the Earl of Northumberland to be sheriff of the county for life; and the judges in the second year of his reign declared that the Earl's appointment was valid. It has been doubted whether there was any determination in that case, and it has been urged, with great appearance of reason, that it proceeded on some exceptions in the statute, and not on the unreasonable doctrine, that an act of parliament, to which the King was a party, could not restrain his prerogative. These are, however, considerations which are rather important to the character of those ancient judges than to the authority of the precedent. If they did determine that the King had a right to dispense with a statute, which had by express words deprived him of such a right, so egregiously absurd a judgment, probably proceeding from base subserviency, was more fit to be considered as a warning, than as a precedent by the judges of succeeding times. Two or three subsequent cases were cited in aid of this early precedent. But they either related to the remission of penalties in offences against the revenue, which stood on a peculiar ground, or they were founded on the supposed authority of the first case, and must fall with that unreasonable determination. Neither the unguarded expressions of Sir Edward Coke, nor the admissions incidentally made by Serjeant Glanville in the debates on the Petition of Rights on a point not material to his argument, could deserve to be seriously discussed as authorities on so momentous a question.

^a 23 Hen. VI. c. 7.

Had the precedents been more numerous, and less unreasonable; had the opinions been more deliberate, and more uniform; they never could be allowed to decide in such a case. Though the constitution of England had been from the earliest times founded on the principles of civil and political liberty, the practice of the government, and even the administration of the law had often departed very widely from these sacred principles. In the best times, and the most regular governments, we find practices to prevail which cannot be reconciled with the principles of a free constitution. During the dark and tumultuous periods of English history, kings had been allowed to do many acts, which, if they were drawn into precedent, would be subversive of public liberty. It is by an appeal to such precedents, that the claim to dangerous prerogatives has been usually justified. The partisans of Charles I. could not deny that the Great Charter had forbidden arbitrary imprisonment, and levy of money without the consent of parliament. But in the famous cases of imprisonment by the personal command of the King, and of levying a revenue by writs of ship-money, they thought that they had discovered a means, without denying either of these principles, of universally superseding their application. Neither in these great cases, nor in the equally memorable instance of the dispensing power, were the precedents such as justified the conclusion. If law could ever be allowed to destroy liberty, it would at least be necessary that it should be sanctioned by clear, frequent, and weighty determinations; by general concurrence of opinion after free and full discussion, and by the long usage of good times. But, as in all doubtful cases relating to the construction of the most unimportant statute, we consider its spirit and object; so, when the like questions arise on the most important part of law, called the constitution, we must try obscure and contradictory usage by constitutional principles, instead of sacrificing these principles to such usage. The advocates of prerogative, indeed, betrayed a consciousness, that they were bound to reconcile their precedents with reason; for they, too, appealed to principles which they called constitutional. A dispensing power, they said, must exist somewhere, to obviate the inconvenience and oppression which might arise from the infallible operation of law; and where can it exist but in the crown, which exercises the analogous power of pardon. It was answered, that the difficulty never can exist in the English constitution, where all

necessary or convenient powers may be either exercised or conferred by the supreme authority of parliament. The judgment in favour of the dispensing power was finally rested by the judges on still more general propositions, which, if they had any meaning, were far more alarming than the judgment itself. They declared, that "the kings of England are sovereign princes; that the laws of England are the King's laws; that, therefore, it is an inseparable prerogative in the King of England to dispense with penal laws in particular cases, and on particular necessary reasons, of which reasons and necessities he is the sole judge; that this is not a trust vested in the King, but the ancient remains of the sovereign power of the kings of England, which never yet was taken from them, nor can be." ^a These propositions had either no meaning pertinent to the case, or they led to the establishment of absolute monarchy. The laws were, indeed, said to be the King's, inasmuch as he was the chief and representative of the commonwealth, as they were contradistinguished from those of any other state, as he had a principal part in their enactment, and the whole trust of their execution. These expressions were justifiable and innocent, as long as they were employed to denote that decorum and courtesy which are due to the regal magistracy. But if they are considered in any other light, they proved much more than the judges dared to avow. If the King might dispense with the laws, because they were his laws, he might for the same reason suspend, repeal, or enact them. The application of these dangerous principles to the Test Act was attended with the peculiar absurdity of attributing to the King a power to dispense with provisions of a law, which had been framed for the avowed and sole purpose of limiting his authority. The law had not hitherto disabled a Catholic from filling the throne. As soon, therefore, as the next person in succession to the crown was discovered to be a Catholic, it was deemed essential to the safety of the established religion to take away from the crown the means of being served by Catholic ministers. The Test Act was passed to prevent a Catholic successor from availing himself of the aid of a party, whose outward badge was adherence to the Roman Catholic religion, and who were seconded by powerful allies in other parts of Europe, to overthrow the constitution, the Protestant church, and at last even the liberty of Protestants to perform their worship and profess their faith.

^a State Trials, xi. 1199.

To ascribe to that very Catholic successor the right of dispensing with all the securities provided against such dangers arising from himself, was to impute the most extravagant absurdity to the laws. It might be perfectly consistent with the principle of the Test Act, which was intended to provide against temporary dangers, to propose its repeal under a Protestant prince. But it is altogether impossible that its framers could have considered a power of dispensing with its conditions as being vested in the Catholic successor whom it was meant to bind. Had these objections been weaker, the means employed by the King to obtain a judgment in his favour rendered the whole of this judicial proceeding a gross fraud, in which judges professing impartiality had been named by one of the parties to a question before them, after he had previously ascertained their partiality to him, and effectually secured it by the example of the removal of more independent judges. The character of Sir E. Herbert makes it painful to disbelieve his assertion, that he was unacquainted with these undue practices. But the notoriety of the facts seems to render the declaration incredible. In the same defence of his conduct which contains this assertion, there is another unfortunate departure from fairness. He rests his defence entirely on precedents, and studiously keeps out of view the dangerous principles which he laid down from the Bench as the foundation of his judgment. Public and solemn declarations, which ought to be the most sincere, are, unhappily, among the most disingenuous of human professions. This circumstance, which so much weakens the bonds of faith between men, is not so much to be imputed to any peculiar depravity in those who conduct public affairs, as the circumstances in which official declarations are made. They are generally resorted to in times of difficulty, if not of danger, and often sure of being countenanced for the time by a numerous body of adherents. Public advantage covers falsehood with a more decent disguise than mere private interest can supply, and the vagueness of official language always affords the utmost facilities for reserve and equivocation. But these considerations, though they may, in some small degree, extenuate the disingenuousness of politicians, must, in the same proportion, lessen the credit which is due to their affirmations.^a

^a The arguments on this question are contained in the Tracts of Sir Edward Herbert, Sir R. Atkyns, and Mr. Attwood, published after the Revolution. State Trials, xi. That of Attwood is the most distinguished for acuteness and research. Sir Edward Herbert's is feebly reasoned, though elegantly written.

After this determination, the judges of their circuit were not received with the accustomed honour.^a Agreeably to the memorable observations of Lord Clarendon in the case of ship-money, they brought disgrace upon themselves, and weakness upon the whole government, by that base compliance which was intended to arm the monarch with undue and irresistible strength. The people of England, peculiarly distinguished by that reverence for the law, and its upright ministers, which is inspired by the love of liberty, have always felt the most cruel disappointment, and manifested the warmest indignation, at seeing the judges converted into instruments of oppression or usurpation.

These proceedings were viewed in a very different light by the ministers of absolute princes. D'Adda informed the papal court that the King had removed from office some contumacious judges, who had refused to conform to justice and reason on the subject of the King's dispensing power.^b So completely was the spirit of France then subdued, that Barillon, the son of the president of the parliament of Paris, the native of a country where the independence of the great tribunals had survived every other remnant of ancient liberty, describes the removal of judges for their legal opinions as coolly as if he were speaking of the dismissal of an exciseman.^c

The King, having, by the decision of the judges, obtained the power of placing the military and civil authority in the hands of his devoted adherents, now resolved to exercise that power, by nominating Catholics to stations of high trust, and to reduce the Church of England to implicit obedience by virtue of his ecclesiastical supremacy. Both these measures were agreed to at Hampton Court on the 4th of July; at which result he showed the utmost complacency.^d It is necessary to give some explanation of the nature of the second, which formed one of the most effectual and formidable measures of his reign.

When Henry VIII. was declared at the Reformation to be the supreme head of the Church of England, no attempt was made to define, with any tolerable precision, the authority to be exercised by him in that character. The object of the lawgiver was to shake off the authority of the See of Rome, and to make effectual pro-

^a Nar. Lutt. 16 August, 1686.

^b Lett. de Mons. D'Adda, 23 Aprile (3 Maggio), 1686.

^c Barillon, 19 (29) April, 1686. Fox MSS. i. 121.

^d D'Adda, 10 July (20 Luglio), 1686. "Somma compiacenza."

vision that all ecclesiastical power and jurisdiction should be administered, like every other part of the public justice of the kingdom, in the name and by the authority of the King. That object scarcely required more than a declaration that the realm was as independent of foreign power in matters relating to the Church as in any other branch of its legislation.^a That simple principle is distinctly intimated in several of the statutes passed on that occasion, though not consistently pursued in any of them. The true principles of ecclesiastical polity were then nowhere acknowledged. The Court of Rome was far from admitting the self-evident truth, that all coercive and penal jurisdiction exercised by the clergy was, in its nature, a branch of the civil power delegated to them by the State, and that the Church as such could exercise only that influence (metaphorically called authority) over the understanding and conscience which depended on the spontaneous submission of its members. The Protestant sects were not willing to submit their pretensions to the control of the magistrate; and even the reformed Church of England, though the creature of statute, showed, at various times, a disposition to claim some rights under a higher title. All religious communities were at that time alike intolerant, and there was, perhaps, no man in Europe who dared to think that the State neither possessed, nor could delegate, nor could recognise as inherent in another body any authority over religious opinions. Neither was any distinction made in the laws to which we have adverted, between the ecclesiastical authority which the King might separately exercise and that which required the concurrence of parliament. From ignorance, inattention, and timidity, in regard to these important parts of the subject, arose the greater part of the obscurity which still hangs over the limits of the King's ecclesiastical prerogative, and the means of carrying it into execution. The statute of the first of Elizabeth, which established the Protestant Church of England, enacted that the crown should have power, by virtue of that act, to exercise its supremacy by commissioners for ecclesiastical causes, nominated by the sovereign, and vested with uncertain and questionable, but very dangerous powers, for the execution of a prerogative of which neither law nor experience had defined the limits. Under the reigns of James and Charles

^a 24 Hen. VIII. c. 12. 25 Hen. VIII. c. 21. See especially the preambles to these statutes.

this court had become the auxiliary and rival of the Star Chamber; and its abolition was one of the wisest of those measures of reformation by which the parliament of 1641 had signalised the first and happiest period of their proceedings.^a At the restoration, when the Church of England was re-established, a part of the Act for the Abolition of the Court of High Commission, taking away coercive power from all ecclesiastical judges and persons, was repealed; but the clauses for the abolition of the obnoxious court, and for prohibiting the erection of any similar court, were expressly re-affirmed.^b Such was the state of the law on this subject when James conceived the design of employing his authority as head of the Church of England, as a means of subjecting that church to his pleasure, if not of finally destroying it. It is hard to conceive how he could reconcile to his religion the exercise of supremacy in a heretical sect, and thus sanction by his example the usurpations of the Tudors on the rights of the Catholic church. It is equally difficult to conceive how he reconciled to his morality the employment for the destruction of a community of a power with which he was intrusted by that community for its preservation. But the fatal error of believing it to be lawful to use bad means for good ends was not peculiar to James, nor to the zealots of his communion. He, indeed, considered the ecclesiastical supremacy as placed in his hands by Providence to enable him to betray the Protestant establishment. "God," said he to Barillon, "has permitted that all the laws made to establish Protestantism now serve as a foundation for my measures to re-establish true religion, and give me a right to exercise a more extensive power than other Catholic princes possess in the ecclesiastical affairs of their dominions."^c He found legal advisers ready with paltry expedients for evading the two statutes of 1641 and 1660, under the futile pretext that they forbade only a court vested with such powers of corporal punishment as had been exercised by the old Court of High Commission; and in conformity to their pernicious counsel, he issued, in July,^d a commission to certain ministers, prelates, and judges, to act as a Court of Commissioners in Ecclesiastical Causes. The first purpose of this court was to enforce directions to preachers, issued by the King,

^a 17 Car. I. c. 11.

^b 13 Car. II. c. 12.

^c Barill. 12 (22) Juillet, 1686. Fox MSS. i. 139.

^d Sealed 14 July, 1686. Evelyn.

enjoining them to abstain from preaching on controverted questions. It must be owned that an enemy of the Protestant religion, placed at the head of the church, could not adopt a more perfidious measure. He well knew that the Protestant clergy alone could consider his orders as of any authority. Those of his own persuasion, totally exempt from his supremacy, would pursue their course, secure of protection from him against the dangers of penal law. The Protestant clergy were forbidden by their enemy to maintain their religion by argument, when they justly regarded it as being in the greatest danger. They disregarded the injunction, and carried on the controversy against Popery with equal ability and success. Among many others, Sharpe, Dean of Norwich, had distinguished himself; and he was selected for punishment, on pretence that he had aggravated his disobedience by intemperate language, and by having spoken contemptuously of the understanding of all who could be seduced by the arguments for Popery, including of necessity the King himself, as if it were possible for a man of sincerity to speak on subjects of the deepest importance without a correspondent zeal and warmth. The mode of proceeding to punishment was altogether summary and arbitrary. Lord Sunderland communicated to the Bishop of London the King's commands, to suspend Sharpe from preaching. The Bishop answered that he could proceed only in a judicial manner; that he must hear Sharpe in his defence before such a suspension, but that Sharpe was ready to give every proof of deference to the King. The court, incensed at the parliamentary conduct of the Bishop, saw, with great delight, that he had given them an opportunity to humble and mortify him. Sunderland boasted to the papal minister, that the case of that Bishop would be a great example.^a He was summoned before the Ecclesiastical Commission, and required to answer why he had not obeyed his Majesty's commands to suspend Sharpe for seditious preaching.^b The Bishop conducted himself with considerable address. After several adjournments, he tendered a plea to the jurisdiction, founded on the illegality of their commission, and he was heard by his counsel in vindication of his refusal to suspend an accused clergyman until he had been heard

^a "Il Re, sommamente intento a levare gli ostacoli, che possono impedire l'avanzamento della religione Cattolica, a trovato il mezzo-piu atto a mortificare il mal talento di Vescovo di Londra. Sara un gran buono e un gran esempio, come mi ha detto Milord Sunderland." D'Adda, 2 July (12 Luglio,) 1686.

^b State Trials, xi. 1158.

in his own defence. The King took a warm interest in the proceedings, and openly showed his joy at being in a condition to strike bold strokes of authority. He received congratulations on that subject with visible pleasure, and assured the French minister that the same vigorous system should be inflexibly pursued.^a He did not conceal his resolution to remove any of the commissioners who should not do "his duty."^b The Princess of Orange interceded in vain with the King for her preceptor, Compton. The influence of the church party was strenuously exerted for that prelate. They were not, indeed, aided by the primate Sancroft, who, instead of either attending as a commissioner to support the Bishop of London, or openly protesting against the illegality of the court, petitioned for and obtained from the King leave to be excused from attendance on the ground of age and infirmities.^c By this irresolute and equivocal conduct the Archbishop deserted the church in a moment of danger, and yet incurred the displeasure of the King. Lord Rochester resisted the suspension. He was supported by Sprat, Bishop of Rochester, and by Sir Edward Herbert. Even Jeffreys, for the first time, inclined towards the milder opinion; for neither his dissolute life, nor his judicial cruelty, however much at variance with the principles of religion, were, it seems, incompatible with that fidelity to the church, which on this and some subsequent occasions prevailed over his zeal for prerogative. A majority of the commissioners were for some time favourable to Compton. Sunderland, and Crew, Bishop of Durham, were the only members of the commission who seconded the projects of the King.^d The presence or protest of the primate might have produced the most decisive effects. Sunderland represented the authority of government as interested in the judgment, which, if it were not rigorous, would secure a triumph to a disobedient prelate, who had openly espoused the cause of faction. Rochester at length yielded, in the presence of the King, to whatever his Majesty might determine, giving it to be

^a Barillon, 19 (29) July, 1686. Fox MSS. i. 140.

^b Barillon, 21 July, (1 Août), 1686. Fox MSS. i. 140.

^c This petition is without a date in the Appendix to Clarendon's Diary. But it is a formal petition, which seems to imply a regular summons. No such summons could have issued before the 14th July, on which day Evelyn, as one of the commissioners of the privy seal, affixed it to the Ecclesiastical Commission. Sancroft's ambiguous petition was therefore subsequent to his knowledge of Compton's danger, so that the excuses of Dr. D'Oyley (Life of Sancroft; i. 225.) cannot be allowed.

^d "L'Archevesque de Canterbury s'étoit excusé de se trouver à la Commission Ecclesiastique sur sa mauvaise santé et son grand âge. On a pris aussi ce prétexte pour l'exclure de la séance de conseil." Barillon, 10 (21 Oct.) Fox MSS. i. 154.

understood that he acted against his own conviction.^a His followers made no longer any stand, after seeing the leader of their party, and the Lord High Treasurer of England, set the example of sacrificing his opinion as a judge, in favour of lenity, to the pleasure of the King; and the court finally pronounced sentence of suspension on the Bishop against the declared opinion of three fourths of its members.

The attempts of James to bestow toleration on his Catholic subjects would, doubtless, in themselves, deserve high commendation, if we could consider them apart from the intentions which they manifested, and from the laws of which they were a continued breach. But zealous Protestants, in the peculiar circumstances of the time, were, with reason, disposed to regard them as measures of hostility against their religion. Some of them must always be considered as daring or ostentatious manifestations of a determined purpose to exalt prerogative above law. A few days after the resolution of the council for the admission of Catholics to high civil trust, the first step was made to its execution by the appointment of the Lords Powys, Arundel, Bellasis, and Dover, to be privy counsellors. In a short time afterwards the same honour was conferred on Talbot, who was created Earl of Tyrconnel, and destined to be the Catholic Lord Lieutenant of Ireland. Sheffield, Earl of Mulgrave, a man who professed indifference in religion, but who acquiesced in all the worst measures of this reign, was appointed a member of the Ecclesiastical Commission.^b Cartwright, Dean of Ripon, whose talents were disgraced by peculiarly infamous vices, was raised to the vacant bishopric of Chester, in spite of the recommendation of Sancroft, who, when consulted by James, proposed Jeffreys, the chancellor's brother, for that see.^c But the merit of Cartwright, which prevailed even over that connexion, consisted in having preached a sermon, in which he inculcated the courtly doctrine, that the promises of kings were declarations of a favourable intention, not to be considered as morally binding. A resolution was taken to employ Catholic ministers at the two important stations of Paris and the Hague, "it being,"

^a Barillon, 6 (16) Sept. and 13 (23) Sept. 1686. Fox MSS. i. 149. 151; a full and apparently accurate account of these divisions among the commissioners.

^b D'Adda, in his letter, 21 Oct. (1 Nov.) 1686, represents Mulgrave as favourable to the Catholics.

^c D'Oyley's *Life of Sancroft*, i. 235, where the Archbishop's letter to the King (dated 29th July, 1685) is printed.

said James to Barillon, "almost impossible to find an English Protestant who had not too great a consideration for the Prince of Orange."^a White, an Irish Catholic of considerable ability, who had received the foreign title of Marquis D'Albyville, was sent to the Hague, partly, perhaps, with a view to mortify the Prince of Orange. It was foreseen that the known character of this adventurer would induce the Prince to make attempts to gain him; but Barillon advised his master to make liberal presents to the minister, who would prefer the bribes of Louis, because the views of that monarch agreed with those of his own sovereign and the interests of the Catholic religion.^b James even proposed to the Prince of Orange to appoint a Catholic nobleman of Ireland, Lord Carlingford, to the command of the British regiments, a proposition which, if accepted, would embroil that Prince with all his friends in England, and if rejected, as it must have been known that it would be, gave the King a new pretext for displeasure to be avowed at a convenient season. But no part of the foreign policy of the King is so much connected with our present subject as the renewal of that open intercourse with the See of Rome which was prohibited by the unrepealed laws passed in the reigns of Henry VIII. and Elizabeth. Monsignor D'Adda had arrived in England before the meeting of parliament, as the minister of the Pope, but appeared at court in the beginning only as a private gentleman. In a short time, James informed him that he might assume the public character of his Holiness's minister, with the privilege of a chapel in his house, and the other honours and immunities of that character, without going through the formalities of a public audience. The assumption of this character James represented as the more proper, because he was about to send a solemn embassy to Rome as his Holiness's most obedient son.^c D'Adda professed great admiration for the pious zeal and filial obedience of the King, and for his determination, as far as possible, to restore religion to her ancient splendour;^d but he dreaded the precipitate measures to which James was prompted

^a Barillon, 12 (22) Juill. 1686.

^b "M. le Prince d'Orange fera ce qu'il pourra pour le gagner; mais je suis persuadé qu'il aimera mieux être dans les intérêts de votre Majesté, sachant bien qu'ils sont conformés à ceux du Roi son maître, et que c'est l'avantage de la religion catholique." Four thousand livres, which Barillon calculates as then equivalent to three hundred pounds sterling, were given to D'Albyville in London. Two thousand more were to be advanced to him at the Hague. Bar. 22 August (2 Sept.), 1686. Fox MSS. i. 147.

^c D'Adda, 4 (14) Dec. 1685.

^d Id. 21 (31) Dec. 1685.

by his own disposition and by the party of zealots who surrounded him. He did not assume the public character till two months afterwards, when he received instructions to that effect from Rome. Hitherto the King had coloured his interchange of ministers with the Roman court under the plausible pretext of maintaining diplomatic intercourse with the government of the Ecclesiastical State as much as with the other princes of Europe. But his zeal soon became impatient of this slight disguise. In a few days after D'Adda had announced his intention to assume the public character of a minister, Sunderland came to him to convey his Majesty's desire that he might take the title of nuncio, which would, in a more formal and solemn manner, distinguish him from other ministers as the representative of the Apostolic See. D'Adda was surprised at this rash proposal.^a The court of Rome long hesitated, from aversion to the foreign policy of James, from a wish to moderate rather than encourage the precipitation of his domestic counsels, and from apprehension of the insults which might be offered to the Holy See, in the sacred person of its nuncio, by the turbulent and heretical populace of London.

The King had sent the Earl of Castlemain, the husband of the Duchess of Cleveland, as his ambassador to Rome. "It seemed singular," said Barillon, "that he should have chosen for such a mission a man so little known on his own account, and too well known on that of his wife."^b The ambassador, who had been a polemical writer in defence of the Catholics,^c and who was almost the only innocent man acquitted on the prosecutions for the Popish plot, seems to have listened more to zeal and resentment than to discretion in the conduct of his delicate negociation. He probably expected to find nothing but religious zeal prevalent at the papal councils. But Innocent XI. was influenced by his character as a temporal sovereign. He considered James not solely as an obedient son of the church, but rather as the devoted or subservient ally of Louis XIV. As Prince of the Roman state, he resented the outrages offered to him by that monarch, and partook with all other states the dread justly inspired by his ambition and his power. Even as head of the

^a Id. 12 (22) Feb. 1686. "Io restar alquanto sorpreso da questo ambasciato."

^b Barillon, 19 (29) Oct. 1685. Fox, Appendix, cxxii.

^c Dod, Ch. Hist. 450.

church, the merits of Louis as the persecutor of the Protestants^a did not, in the eye of Innocent, atone for his encouraging the Gallican church in their recent resistance to the unlimited authority of the Roman pontiff. These discordant feelings and embroiled interests, which it would have required the utmost address and temper to reconcile, were treated by Castlemain with the rude hand of an inexperienced zealot. Hoping, probably, to be received with open arms as the forerunner of the reconciliation of a great kingdom, he was displeased at the reserve and coldness with which the pontiff treated him, and instead of patiently labouring to overcome obstacles which he ought to have foreseen, he resented them with a violence more than commonly foreign from the decorum of the papal court. He was instructed to solicit a cardinal's hat for Prince Rinaldo of Este, the Queen's brother; a moderate suit, the consent to which was for a considerable time retarded from an apprehension of strengthening the French interest in the sacred college. The second request was, that the Pope would confer a titular bishoprick^b on Edward Petre, an English Jesuit of noble family, who, though not formally the King's confessor,^c had more influence on his mind than any other ecclesiastic. This honour was desired, in order to qualify this gentleman for performing with more dignity the duties of dean of the Chapel Royal. Innocent declined, on the ground that the Jesuits were prohibited by their institution to accept bishopricks, and that he should sooner make a Jesuit a cardinal than a bishop. But as the popes had often dispensed with this prohibition, Petre himself rightly conjectured that the ascendant of the Austrian party at Rome, who looked on him with an evil eye as a partisan of France, was the true cause of the refusal.^d The King afterwards solicited for his favourite the higher dignity of cardinal. But he was finally refused, though with profuse civility,^e from the same motive, but under the pretence that there had been no Jesuit cardinal since Bellarmine, the great

^a It appears by the copy of a letter in my possession from Don Pedro Renquillo, the Spanish ambassador in London, to Don Francesco Bernado de Quixos, 26 March (5 April), 1686, that Innocent, though he publicly applauded the zeal of Louis, did not in truth approve the revocation of the edict of Nantes.

^b "In partibus infidelium," as it is called. Barill. 17 (27) June, 1686. — Fox MSS. i. 130.

^c This office was held by a learned Jesuit, named Warner. Dod, Ch. Hist. iii. 491.

^d Barillon, 22 Nov. (2 Dec.), 1686. Fox MSS. i. 160.

^e Dod, Ch. Hist. iii. 511, where the official correspondence in 1687 is published.

controversialist of the Roman Catholic church.^a Besides these personal objects, Castlemain laboured to reconcile the Pope to Louis XIV., and to procure the interposition of Innocent for the preservation of the general peace. But of these objects, specious as they were, the attainment of the first would strengthen France, and that of the second imported a general acquiescence in her unjust aggrandizement. Even the triumph of monarchy and popery in England, together with the projects already entertained for the suppression of the Northern heresy, as the Reformation was then called, and for the conquest of Holland, which was considered as a nest of heretics, could not fail to alarm the most zealous of those Catholic powers who dreaded the power of Louis, and were averse to strengthen his allies. It was impossible that intelligence of such suggestions at Rome should not immediately reach the courts of Vienna and Madrid, or should not be communicated by them to the Prince of Orange. Castlemain suffered himself to be engaged in contests for precedence with the Spanish minister, which served, and were perhaps intended, to embroil him more deeply with the Pope. James at first resented the refusal to promote Petre,^b and for a time seemed to espouse the quarrel of his ambassador. D'Adda was obliged, by his station, and by his intercourse with Lord Sunderland, to keep up friendly appearances with Petre, but Barillon easily discovered that the papal minister disliked that Jesuit and his order, whom he considered as devoted to France.^c The Pope instructed his minister to complain of the conduct of Castlemain, as very ill becoming the representative of so pious and so prudent a king. D'Adda made this representation to James at a private audience where the Queen and Lord Sunderland were present. That zealous princess, with more fervour than dignity, often interrupted his narrative by exclamations of horror at the liberty with which a Catholic minister had spoken to the successor of St. Peter.^d Lord Sunderland said to him, "The King will do whatever you please." James professed the most unbounded devotion to the Holy See; and assured D'Adda that he would write a letter to his Holiness, to express his regret for the unbecoming conduct of his am-

^a D'Adda, 28 July (8 Agosto), 1687.

^b Barillon, 22 Nov. (2 Dec.), *ubi supra*.

^c Barillon, 7 (17) June, 1686. Fox MSS, 133. Barillon, 28 Feb. (10 Mar.), 1687. Fox, i. 174.

^d D'Adda, 13 (23) May, 1687. "Jesu, e possibile!"

bassador.^a When this submission was made, Innocent formally forgave Castlemain for his indiscreet zeal in promoting the wishes of his sovereign;^b and James publicly announced the admission of his ambassador at Rome into the Privy Council, both to console the unfortunate minister, and the more to show how much he set at defiance the laws which forbade both the embassy and the preferment.^c

CHAPTER III.

State of the Army.—Attempts of the King to convert the Army.—The Princess Anne.—Dryden.—Lord Middleton and others.—Revocation of the Edict of Nantes.—Attempt to convert Rochester.—Conduct of the Queen.—Religious Conference.—Failure of the Attempt.—His Dismissal.

DURING the summer, the King had assembled a body of 15,000 troops, who were encamped on Hounslow Heath; a spectacle new to the people of England, who, though full of martial spirit, have never regarded with favour the separate profession of arms.^d He viewed this encampment with a complacency natural to princes, and he expressed his feelings to the Prince of Orange in a tone of no friendly boast.^e He caressed the officers, and he openly declared that he should keep none but those on whom he could rely.^f A Catholic chapel was opened on the camp, and missionaries were distributed among the soldiers. The numbers of the army rendered

^a D'Adda, 20 (30) May and 27 May (6 June.), 1689.

^b Letter of Innocent XI. to James, 16 Aug. 1687. Dod, Ch. Hist. iii. 511.

^c Lond. Gaz. 26 Sept. 1687.

^d The army, on the 1st of January, 1685, amounted to 19,978. Accounts in the War Office. The number of the army in Great Britain in 1824 is 22,019 (Army Estimates), the population being 14,391,681 (Population Returns); which gives a proportion of nearly one out of every 654 persons, or of one soldier out of every 160 men of the fighting age. The population of England and Wales, in 1685, not exceeding five millions, the proportion of the army to it was one soldier to every 250 persons, or of one soldier to every sixty-five men of the fighting age. Scotland, in 1685, had a separate establishment. The army of James, at his accession, therefore, was more than twice and a half greater in comparison with the population than the present force (1822). The comparative wealth, if it could be estimated, would probably afford similar results.

^e James to the Prince of Orange, 29 June, 1686. Dalry, Appendix to Books iii. & iv.

^f Barillon, 8 July, 1686. Dalry. Id.

it an object of very serious consideration. Supposing it to be only 32,000 in England and Scotland, it was double the number kept up in Great Britain in the year 1792, when the population of the island had certainly more than doubled. As it was kept on foot without consent of parliament, there was no limit to its numbers, but the means of supporting it possessed by the King; which might be derived from the misapplication of funds granted for other purposes, or be supplied by foreign powers interested in destroying the liberties of the kingdom. The means of governing this army were at first a source of perplexity to the King; but, in the sequel, a new object of apprehension to the people. The petition of right, in affirmance of the ancient laws, had forbidden the exercise of martial law within the kingdom.^a The ancient mode of establishing those summary jurisdictions and punishments which seem to be necessary to secure the obedience of armies was, in a great measure, wanting. The servile ingenuity of aspiring lawyers was, therefore, set at work to devise some new expedient for more easily destroying the constitution, according to the forms of law. For this purpose they revived the provisions of some ancient statutes^b which had made desertion a capital felony, though these statutes were, in the opinion of the best lawyers, either repealed, or confined to soldiers serving in the case of actual or immediately impending hostilities. Even this device did not provide the means of punishing the other military offences, which are so dangerous to the order of armies, that there can be little doubt of their having been actually punished by other means, however confessedly illegal. Several soldiers were tried, convicted, and executed for the felony of desertion; and the scruples of Judges on the legality of these proceedings induced the King more than once to recur to his ordinary measure for the purification of tribunals, by the removal of the Judges, and by the dismissal from the recordership of London of Sir John Holt, who was destined, in better times, to be one of the most inflexible guardians of the laws. The only person who ventured to express the general feeling respecting the army was Mr. Samuel Johnson, who had been chaplain to Lord Russell, and who was then in prison for a work which he published some years before against the succession of James, under the title of Julian the

^a Statute 3 Charles I. c. I.

^b 7 H. VII. c. 1. 3 H. VIII. c. 5.; & 2 & 3 Edw. VI. c. 2. Hale, Pleas of the Crown, Book i. c. 63

Apostate.^a He now wrote, and sent to an agent to be dispersed (for there was no proof of actual dispersion or sale),^b an address to the army, expostulating with them on the danger of serving under illegally commissioned officers, and for objects inconsistent with the safety of their country. He also wrote another paper, in which he asserted that "resistance may be used in case our religion or our rights should be invaded." For these acts he was tried, convicted, and sentenced to pay a small fine, to be thrice pilloried, and to be whipped by the common hangman from Newgate to Tyburn. For both these publications, his spirit was, doubtless, deserving of the highest applause. The prosecution in the first case can hardly be condemned, and the conviction still less. But the cruelty of the punishment reflects the highest dishonour on the Judges, more especially on Sir Edward Herbert, whose high pretensions to morality and humanity deeply aggravate the guilt of his concurrence in this atrocious judgment.

Previous to the infliction of the punishment, he was degraded from his sacred character by Crew, Sprat, and White, three bishops authorised to exercise ecclesiastical jurisdiction in the diocese of London during the suspension of Compton. When, as part of the formality, the Bible was taken out of his hands, he struggled to preserve it, and, bursting into tears, cried out, "You cannot take from me the consolation contained in the sacred volume." The barbarous judgment was "executed with great rigour and cruelty."^c In the course of a painful and ignominious progress of two miles through crowded streets, he received 317 stripes, inflicted with a whip of nine cords knotted. It will be a consolation to the reader, as soon as he has perused the narrative of these enormities, to learn, though with some disturbance to the order of time, that amends were in some measure made to Mr. Johnson, and that his persecutors were reduced to the bitter mortification of humbling themselves before their victim. After the Revolution, the judgment pronounced on him was voted by the House of Commons to be illegal and cruel.^d Crew, Bishop of Durham, one of the commissioners who deprived him, made him a considerable com-

^a State Trials, xi. 1339.

^b In fact, however, many were dispersed. Kennett, iii. 450.

^c Comm. Journ. 24 June, 1690. These are the words of the Report of a Committee who examined evidence on the case, and whose resolutions were adopted by the house. They sufficiently show that Echard's extenuating statements are false.

^d Comm. Journ. ubi supra.

pensation in money; ^a and Withins, the Judge who delivered the sentence, counterfeited a dangerous illness, and pretended that his dying hours were disturbed by the remembrance of what he had done, in order to betray Johnson, through his humane and Christian feelings, into such a declaration of forgiveness as might contribute to shelter the cruel Judge from further animadversion. ^b

The desire of the King to propagate his religion was a natural consequence of zealous attachment to it. But it was a very dangerous quality in a monarch, especially when the principles of religious liberty were not adopted by any European government. The royal apostle is seldom convinced of the good faith of the opponent whom he has failed to convert. He soon persuades himself that the pertinacity of the heretic arises more from the depravity of his nature than from the errors of his judgment. He first shows displeasure to his perverse antagonists; he then withdraws advantages from them; he, in many cases, may think it reasonable to bring them to reflection by some degree of hardship; and the disappointed disputant may at last degenerate into a furious persecutor. The attempt to convert the army was peculiarly dangerous to the King's own object. He boasted of the number of converts in one of his regiments of Guards, without considering the consequences of teaching controversy to an army. The political canvas carried on among the officers, and the controversial sermons preached to the soldiers, probably contributed to awaken that spirit of enquiry and discussion in his camp which he ought to have dreaded as his most formidable enemy. He early destined the revenue of the Archbishop of York to be a provision for converts. ^c He probably was sincere in his professions, that he meant only to make it a provision for those who had sacrificed interest to religion. But experience shows how easily such a provision swells into a reward, and how naturally it at length becomes a premium for hypocrisy. It was natural that his passion for proselytes should show itself towards his own children. The Pope, in his conversations with Lord Castlemain, said, that without the conversion of the Princess Anne, no advantage obtained for the Catholic religion could be permanently secured. ^d The King assented to this opinion, and had, indeed, before attempted to dispose his daughter favourably to his religion, influenced probably by pa-

^a Narciss. Luttrell, Februrary, 1690.

^b State Trials, xi. 1354.

^c D'Adda, 30 April (10 Maggio) 1686.

^d Barillon, 17 June (27 June) 1686. Fox MSS. i. 131.

rental kindness, which was one of his best qualities.^a He must have considered as hopeless the case of his eldest daughter, early removed from her father, and the submissive as well as affectionate wife of a husband of decisive character, and who was the leader of the Protestant cause. To Anne, therefore, his attention was turned, But with her he found insurmountable difficulties. Both these princesses, after their father had become a Catholic, were considered as the hope of the Protestant religion, and accordingly trained in the utmost horror of popery. Their partialities and resentments were regulated by difference of religion; their political importance and their splendid prospects were dependent on the Protestant church. Anne was surrounded by zealous churchmen; she was animated by her preceptor Compton; her favourites Lord and Lady Churchill had become determined partisans of Protestantism; and the King found, in the obstinacy of his daughter's character, a resistance hardly to be apprehended from a young princess of slight understanding.^b Some of the reasons of this zeal for converting her clearly show that, whether the succession was actually held out to her as a lure or not, at least there was an intention, that if she became a Catholic she should be preferred to the Princess of Orange. Bonrepaux, a French minister of ability, who has been already mentioned, had indeed, at a somewhat earlier period, tried the effect of that temptation on her husband, Prince George.^c He ventured to ask his friend the Danish envoy, "whether the Prince had any ambition to raise his consort to the throne at the expense of the Princess, which seemed to be practicable if he became a Catholic." The envoy hinted this bold suggestion to the Prince, who appeared to receive it well, and even showed a willingness to be instructed on the controverted questions. Bonrepaux found means to supply the Princess with Catholic books, which, for a moment, she showed some willingness to consider. He represented her to his court as timid and silent, but ambitious and of some talent, with a violent hatred for the Queen. He reported his attempts to the King, who listened to him with the utmost pleasure; and the subtle diplomatist observes, that, though he might fail in the conversion, he should certainly gain the good graces of James by the effort, which his knowledge of that monarch's hatred of the Prince of Orange had been his chief inducement to hazard.

^a D'Adda, 30 April (10 Maggio) 1686.

^b Barillon, *ubi supra*.

^c Bonrepaux à Seignelai, 18 March (28 Mars), 1689. Fox MSS. i. 95.

The success of the King himself, in his attempts to make proselytes, was less than might have been expected from his zeal and influence. Parker, originally a zealous Nonconformist, afterwards a slanderous buffoon, and an Episcopalian of persecuting principles, earned the bishopric of Oxford by showing a strong disposition to favour, if not to be reconciled to, the Church of Rome. Two bishops publicly visited Mr. Leyburn the Catholic prelate, at his apartments in St. James's Palace, on his being made almoner to the King, when it was, unhappily, impossible to impute their conduct to liberality or charity.^a Walker, the master of University College in Oxford, and three of the fellows of that society, were the earliest and most noted of the few open converts among the clergy. L'Estrange, though he had for five-and-twenty years written all the scurrilous libels of the court, refused to abandon the Protestant Church. Dryden, indeed, conformed to the doctrines of his master;^b and neither the critical time, nor his general character, have been sufficient to deter some of the admirers of that great poet from seriously maintaining that his conversion was real. The same persons who make this stand for the conscientious character of the poet of a profligate court, have laboured with all their might to discover and exaggerate those human frailties from which fervid piety and intrepid integrity did not altogether preserve Milton, in the evil days of his age, and poverty, and blindness.^c The King failed in a personal attempt to convert Lord Dartmouth, whom he considered as his most faithful servant for having advised him to bring Irish troops into England, as they were more worthy of trust than others;^d a remarkable instance of a man of honour who ad-

^a D'Adda, 11 January (22 Jenn), 1686. The King and Queen took the sacrament at St. James's Chapel. "Portando la Spado avanti S. M. il Duca di Gordon, Scozzese Cattolico, Monsig^{re} Vescovo Leyburn, e passato da alcuni giorni nell' appartamento de St. James destinato al gran Elimosiniere de S. M. in habito lungo nero portando la croce nera, si fa vedere in publico visitandolo ministri de Principi e altri: furono un giorno per fargli una visita due vescovi Protestanti." As this occurred before the promotion of the two profligate prelates, Parker and Cartwright, one of these visitors must have been Crew, and the other was, too probably, Spratt. The former had been appointed Clerk of the Closet and Dean of the Chapel Royal a few days before.

^b "Dryden, the famous play-writer, and his two sons, and Mrs. Nelly, were said to go to mass. Such proselytes were no great loss to the church." Evelyn, i. 594. 19 Jan. 1686. The rumour, as far as it related to Mrs. Gwynne, was calumnious.

^c Compare Dr. Johnson's biography of Milton with his generally excellent life of Dryden.

^d D'Adda, 30 April (10 Maggio), 1686. "Diceva il Re che il detto Milord veramente gli aveva dato consigli molto fedeli, uno di quelle era stato di far venire truppi Irlandesi in Inghilterra, nelle quali poteva S. M. meglio fidarsi che negle altri."

hered inflexibly to the Church of England, though his counsels relating to civil affairs were the most fatal to public liberty. Middleton, one of the secretaries of state, a man of ability, supposed to have no strong principles of religion, was equally inflexible. The Catholic divine who was sent to him began by attempting to reconcile his understanding to the mysterious doctrine of transubstantiation. "Your Lordship," said he, "believes the Trinity."—"Who told you so?" answered Middleton. "You are come here to prove your own opinions, not to ask about mine." The astonished priest is said to have immediately retired. Sheffield, Earl of Mulgrave, is also said to have sent away a monk who came to convert him by a jest upon the same doctrine:—"I have convinced myself," said he, "by much reflection that God made man; but I cannot believe that man can make God." But though there is no reason to doubt his pleasantry or profaneness, his integrity is more questionable. He was made lord chamberlain immediately after Jeffrey's circuit.^a He was appointed a member of the Ecclesiastical Commission when Sancroft refused to act.^b He continued in that office to the last. He held hopes that he might be converted to a very late period of the reign.^c He was employed by James to persuade Sir George Mackenzie to consent to the removal of the test.^d He brought a patent for a marquise to the King when on the eve of quitting the kingdom; and in the month of October, 1688, he thought it necessary to provide against the approaching storm by obtaining a general pardon.^e Colonel Kirke, from whom strong scruples were hardly to be expected, is said to have answered the King's desire, that he would listen to Catholic divines, by declaring, that when he was at Tangier he had engaged himself to the Emperor of Morocco, if ever he changed his religion, to become a Mahometan. Lord Churchill, though neither insensible to the kindness of James, nor distinguished by a strict con-

^a Lond. Gaz. 21st Oct. 1685, the day of Mrs. Gaunt's execution.

^b Com. Journ. 4th June, 1689. The first commission passed the Great Seal on the 15th July, 1685; the second, in which Mulgrave is substituted for Sancroft, on the 22d of November, in the same year. Mulgrave's name continues in the last commission, 14th Oct. 1687.

^c Barillon, 20 August (30 Août), 1687. Fox MSS. i. 199. "Il est assez apparent qu'il a donné les assurances au Roi d'Angleterre de se déclarer Catholique; mais il diffère de le faire, et ceux qui le connoissent davantage croient qu'il ne le fera plus."

^d Halifax M.S. ^e Id. ibid. "Half an hour before King James went away."

^f State Paper Office. Had not Lord Mulgrave written some memoirs of his own time, his importance as a statesman would not have deserved so full an exposure of his political character.

formity to the precepts of religion, withstood the attempts of his generous benefactor to bring him over to the church of Rome. He said of himself, that though he had not led the life of a saint, he trusted that he had the courage to die the death of a martyr.^a

So much constancy in religious opinion may seem singular among courtiers and soldiers : but it must be considered, that the inconsistency of men's actions with their opinions is more often due to infirmity than to insincerity; that the members of the Protestant party were restrained from deserting it by principles of honour; and that the disgrace of desertion was much aggravated by the general unpopularity of the adverse cause, and by the violent animosity then raging between the two parties who divided England and Europe.

Nothing so much excited the abhorrence of all Protestant nations against Louis XIV. as the measures which he adopted against his subjects of the Protestant religion. As his policy on that subject contributed to the downfall of James, it seems proper to state it more fully than the internal occurrences of a foreign country ought generally to be treated in English history. The opinions of the Reformers, which triumphed in some countries of Europe, and were wholly banished from others, had very early divided France and Germany into two powerful but unequal parties. The wars between the princes of the empire which sprung from this source, after a period of 150 years, were finally composed by the treaty of Westphalia. In France, where religious enthusiasm was exasperated by the lawless character and mortal animosities of civil war, these hostilities raged for near forty years with a violence unparalleled in any civilised age or country. As soon as Henry IV. had established his authority by conformity to the worship of the majority of his people, the first object of his paternal policy was to secure the liberty of the Protestants, and to restore the quiet of the kingdom by a general law on this equally arduous and important subject. The contending opinions in their nature admitted no negotiation or concession. The simple and effectual expedient of permitting them all to be professed with equal freedom was then untried in practice, and almost unknown in speculation. The toleration of error, according to the received principles of that age, differed little from the per-

^a Lord Churchill to Prince of Orange. Cox's Mem.

mission of crimes. Amidst such opinions it was extremely difficult to frame a specific law for the government of hostile sects; and the edict of Nantes, passed by Henry for that purpose in the year 1598, must be considered as honourable to the wisdom and virtue of his Catholic counsellors. This edict,^a said to be composed by the great historian De Thou, was founded on the principle of a treaty of peace between belligerent parties sanctioned and enforced by the royal authority. Though the transaction was founded merely in humanity and prudence, without any reference to religious liberty, some of its provisions were conformable to the legitimate results of that great principle. All Frenchmen of the reformed religion were declared to be admissible to every office, civil and military, in the kingdom; and they were received into all schools and colleges without distinction. Dissent from the Established Church was exempted from all penalty or civil inconvenience. The public exercise of the Protestant religion was confined to those cities and towns where it had been formerly granted, and to the mansions of the gentry who had seignorial jurisdiction over capital crimes. It might, however, be practised in other places by the permission of the Catholics, who were lords of the respective manors. Wherever the worship of the Protestants was lawful, their religious books might freely be bought and sold. They might inhabit any part of the kingdom without molestation for their opinion; and private worship was every where protected by the exemption of their houses from all legal search on account of religion. These restrictions, though they show the edict to be a pacification between parties, with little regard to the conscience of individuals, yet do not seem in practice to have much limited the religious liberty of French Protestants.

To secure an impartial administration of justice, chambers, in which Protestants and Catholics were in equal numbers, were established in the principal parliaments.^b The edict was declared to be a perpetual and irrevocable law. By a separate grant executed at Nantes, the King authorised the Protestants, for eight years, to garrison the towns and places of which they were at that

^a The original edict is to be found in Benoit, *Hist. de l'Edit de Nantes*, Appendix, p. 62—85.

^b Paris, Thoulouse, Grenoble, and Bourdeaux. The Chambers of the Edict at Paris took cognizance of all causes where Protestants were parties in Normandy and Britany.

time in military possession, and to hold them under his authority and obedience. The possession of these places of security was afterwards continued from time to time, and the expense of their garrisons defrayed by the crown. Some cities also, where the majority of the inhabitants were Protestants, and where the magistrates, by the ancient constitution, regulated the armed force, with little dependence on the crown, such as Nismes, Rochelle, and Montauban,^a though not formally garrisoned by the reformed, still constituted a part of their military security for the observance of the edict. An armed sect of dissenters must have afforded many plausible pretexts for attacking them; and Cardinal Richelieu had justifiable reasons of policy for depriving the Protestants of those important fortresses, the possession of which gave them the character of an independent republic, and naturally led them into dangerous connexion with Protestant and rival states. His success in accomplishing that important enterprise is one of the most splendid parts of his administration; though he owed the reduction of Rochelle to the feebleness and lukewarmness, if not to the treachery, of the court of England. Richelieu discontinued the practice of granting the royal licence to the Protestant body to hold political assemblies; and he adopted it as a maxim of permanent policy, that the highest dignities of the army and the state should be granted to Protestants only in cases of extraordinary merit. In other respects that haughty minister treated the Protestants as a mild conqueror. When they were reduced to entire submission, in 1629, an edict of pardon was issued at Nismes, confirming all the civil and religious principles which had been granted by the edict of Nantes.^b At the moment that they were reduced to the situation of private subjects, they disappear from the history of France. They are not mentioned in the dissensions which disturbed the minority of Louis XIV. They are not named by that Prince in the enumeration which he gives of objects of public anxiety at the period which preceded his assumption of the reins of government, in 1660. The great families attached to them by birth and honour during civil war

^a Cautionary towns.—“La Rochelle surtout avait des traités avec les Rois de France qui la rendoient presque indépendante.” Benoit, 251.

^b Benoit. Hist. de l'Edit de Nantes, ii. App. 92. (Madame de Ducas, the sister of Turenne, was so zealous a Protestant that she wished to educate as a minister her son, who afterwards went to England, and became Lord Feversham. Benoit, Hist. de l'Edit, iv. 129.)

were gradually allured to the religion of the court; while those of inferior condition, like the members of other sects excluded from power, applied themselves to the pursuit of wealth, and were patronised by Colbert as the most ingenious manufacturers in France. A declaration, prohibiting the relapse of converted Protestants under pain of confiscation, indicated a disposition to persecute, which that prudent minister had the good fortune to check. An edict punishing emigration with death, though long after turned into the sharpest instrument of intolerance, seems originally to have flowed solely from the general prejudices on that subject, which have infected the laws and policy of most states. Till the peace of Nimeguen, when Louis had reached the zenith of his power, the French Protestants experienced only those minute vexations from which sectaries, discouraged by a government, are seldom secure. The immediate cause of a general and open departure from the moderate system, under which France had enjoyed undisturbed quiet for half a century, is to be discerned only in the character of the King, and the inconsistency of his conduct with his opinions. Those conflicts between his disorderly passions and his unenlightened devotion, which had long agitated his mind, were at last composed under the ascendant of Madame de Maintenon; and in this situation he was seized with a desire of signalising his penitence, and atoning for his sins, by the conversion of his heretical subjects.^a The prudence as well as moderation of Madame de Maintenon prevented her from counselling the employment of violence against the members of her former religion, nor do such means appear to have been distinctly contemplated by the King; still she dared not moderate the zeal on which her greatness was founded. But the passion for conversion, armed with absolute power, fortified by the sanction of mistaken conscience, intoxicated by success, exasperated by resistance, anticipated and carried beyond its purpose by the zeal of subaltern agents, deceived by their false representations, and often irrevocably engaged by their rash acts, too warm to be considerate in choosing means or weighing consequences, led the government of France, under a prince of no cruel nature, by an almost unconscious progress, in the short space of six years, from a successful

^a "Le Roi pense sérieusement à la conversion des hérétiques, et dans peu on y travaillera tout de bon." Lettre de Mad. de Maintenon, Oct. 28. 1679.

The work of M. de Rulhière on the Causes of the Revocation of the Edict of Nantes (Paris, 1788), first made known the fatal history of this fatal transaction.

system of toleration to the most unprovoked and furious persecution ever carried on against so great, so innocent, and so meritorious a body of men. The Chambers of the Edict were suppressed on general grounds of judicial reformation, and because the concord between the two religions rendered them no longer necessary. By a series of edicts the Protestants were excluded from all public offices, and from all professions which were said to give them a dangerous influence over opinion. They were successively rendered incapable of being judges, advocates, attorneys, notaries, clerks, officers, or even attendants of courts of law. They were banished in multitudes from places in the revenue, to which their habit of method and calculation had directed their pursuits. They were forbidden to exercise the occupations of printers and booksellers.^a Even the pacific and neutral profession of medicine, down to its humblest branches, was closed to their industry. They were prohibited from intermarriage with Catholics, and from hiring Catholic domestics, without exception of convenience or necessity. Multitudes of men were thus driven from their employments, without any regard to their habits, expectations, and plans, which they had formed on the faith of the laws. Besides the misery which immediately flowed from these acts of injustice, they roused and stimulated the bigotry of those, who need only the slightest mark of the temper of government to inflict on their dissenting countrymen those minute but ceaseless vexations which embitter the daily course of human life.

As the edict of Nantes had only permitted the public worship of Protestants in certain places, it had often been a question whether particular churches were erected conformably to that law. The renewal and multiplication of suits on this subject furnished the means of striking a dangerous blow against the reformed religion. Prejudice and servile tribunals adjudged multitudes of churches to be demolished by decrees which were often illegal, and always unjust. By these judgments a hundred thousand Protestants were, in fact, prohibited from the exercise of their religion. They were deprived of the means of educating their clergy by the suppression of their flourishing colleges at Sedan, Saumur, and Montauban, which had long been numbered among the chief ornaments of

^a It is singular that they were not excluded from the military service by sea or land.

Protestant Europe. Other expedients were devised to pursue them into their families, and harass them in those situations where the disturbance of quiet inflicts the deepest wounds on human nature. The local judges were authorised and directed to visit the death-beds of Protestants, and to interrogate them whether they determined to die in obstinate heresy. Their children were declared competent to abjure their errors at the age of seven ; and by such mockery of conversion they might escape, at that age, from the affectionate care of their parents. Every childish sport was received as evidence of abjuration. Every parent dreaded the presence of a Catholic neighbour, as the means of ensnaring a child into irrevocable alienation. Each of these disabilities or severities was inflicted by a separate edict ; and each was founded on the allegation of some special grounds, which seemed to guard against any general conclusion at variance with the privileges of Protestants.

On the other hand, a third of the King's savings on his privy purse was set apart to recompense converts to the established religion. The new converts were allowed a delay of three years for the payment of their debts ; and they were exempted for the same period from the obligation of affording quarters to soldiers. This last privilege seems to have suggested to Louvois, a minister of great talent but of tyrannical character, a new and more terrible instrument of conversion. He despatched regiments of dragoons into the Protestant provinces, with instructions that they should be almost entirely quartered on the richer Protestants. This practice, which afterwards, under the name of *Dragonnades*, became so infamous throughout Europe, was attended by all the outrages and barbarities to be expected from a licentious soldiery let loose on those whom they considered as the enemies of their King, and the blasphemers of their religion. Its effects became soon conspicuous in the feigned conversion of great cities and extensive provinces ; which, instead of opening the eyes of the government to the atrocity of the policy adopted under its sanction, served only to create a deplorable expectation of easy, immediate, and complete success. At Nismes, 60,000 Protestants abjured their religion in three days.^a The King was informed by one despatch that all Poitou was converted, and that in some parts of Dauphiné

^a Mém. du Chan. D'Aguesseau.

the same change had been produced by the terror of the dragoons without their actual presence.^a

All these expedients of disfranchisement, chicane, vexation, seduction, and military licence, almost amounting to military execution, were combined with declarations of respect for the edict of Nantes, and of resolutions to maintain the religious rights of the new churches. Every successive edict spoke the language of toleration and liberality. Every separate exclusion was justified on a distinct ground of specious policy. The most severe hardships were plausibly represented as necessarily arising from a just interpretation and administration of the law. Many of the restrictions were in themselves small; many tried in one province, and slowly extended to all; some apparently excused by the impatience of the sufferers under preceding restraints. In the end, however, the unhappy Protestants saw themselves surrounded by a persecution which, in its full extent, had probably never been contemplated by the author; and, after all the privileges were destroyed, nothing remained but the formality of repealing the law by which these privileges had been conferred. At length, on the 18th of October, 1685, the government of France, not unwillingly deceived by feigned conversions, and, as it now appears, actuated more by sudden impulse than long-premeditated design, revoked the edict of Nantes. In the preamble of the edict of revocation it was alleged, that, as the better and greater part of those who professed the pretended reformed religion had embraced the Catholic faith, the edict of Nantes had become unnecessary. The ministers of the reformed faith were banished from France, in fifteen days, under pain of the galleys. All Protestant schools were shut up; and the unconverted were to remain in France, without annoyance on account of their religion. Soon after, the children of Protestants, from five to sixteen, were ordered to be taken from their parents, and committed to the care of their nearest Catholic relations, or, in default of such relations, to the magistrates. The return of the exiled ministers, and the attendance on a Protestant church for religious worship, were made punishable with death. Carrying vengeance beyond the grave, another edict enjoined, that if any new converts should refuse the Catholic sacraments on their death-bed, when required to receive them by a magistrate, their

^a Mém. de Dangeau in Lemontey, Mém. de Louis XIV. The fate of the province of Bearn was peculiarly dreadful. It may be seen in Rulhière and Benoit.

bodies should be drawn on a hurdle along the public way, and then cast into the common sewers.

The conversion sought with most apparent eagerness was that of Lord Rochester. Though he had lost all favour, and even confidence, James long hesitated to remove him from office. He was willing, but afraid to take a measure which would involve a final rupture with the Church of England. His connexion with the family of Hyde, and some remains perhaps of gratitude for past services, and a dread of increasing the numbers of his enemies, together with the powerful influence of old habits of intimacy, kept his mind for some time in a state of irresolution and fluctuation. His dissatisfaction with the Lord Treasurer became generally known in the summer, and appears to have been considerably increased by the supposed connexion of that nobleman with the episcopalian administration in Scotland; of whose removal it will become our duty presently to speak.^a The sudden return of Lady Dorchester revived the spirits of his adherents.^b But the Queen, a person of great importance in these affairs, was, on this occasion, persuaded to retain her anger, and to profess a reliance on the promise made by the King not to see his mistress.^c Formerly, indeed, the violence of her temper is said to have been one source of her influence over the King; and her ascendancy was observed to be always greatest after those paroxysms of rage to which she was excited by the detection of his infidelities. But, in circumstances so critical, her experienced advisers dissuaded her from repeating hazardous experiments;^d and the amours of her husband are said, at this time, to have become so vulgar and obscure as to elude her vigilance. She was mild and submissive to him; but she showed her suspicion of the motive of Lady Dorchester's journey by violent resentment against Clarendon, the Lord Lieutenant of Ireland, whom she believed to be privy to it, and who in vain attempted to appease her anger by the most humble, not to say abject, submissions.^e She at

^a Barillon, 8 July (18 Juillet), 1686. Fox MSS. i. 138.

^b Barillon, 23 August (2 Sept.), 1686. Ibid.

^c Report of an agent of Louis XIV. in London, in 1686, of which a copy is in my possession.

^d In a MS. among the Stuart papers in possession of his Majesty, which was written by Sheridan, Secretary for Ireland under Tyrconnel, we are told that Petre and Sunderland agreed to dismiss Mrs. Sedley, under pretence of morality, but really because she was thought the support of Rochester; and that it was effected by Lady Powis and Bishop Giffard, to the Queen's great joy. See farther Barillon, 26 August (5 Sept.), 1689. Fox MSS. i. 148.

^e Letters of Henry, Earl of Clarendon.

this moment seemed to have had more than ordinary influence, and she was admitted into the secret of all affairs.^a Supported, if not instigated by her, Sunderland and Petre, with the more ambitious and turbulent part of the Catholics, represented to the King that nothing favourable to the Catholics was to be hoped from parliament so long as his court and council were divided, and as he was surrounded by a Protestant cabal, at the head of which was the Lord Treasurer, who professed the most extravagant zeal for the English church; that, notwithstanding the pious zeal of his Majesty, nothing important had yet been done for religion; that not one considerable person had declared himself a Catholic; that no secret believer would avow himself, and no well-disposed Protestant would be reconciled to the church, till the King's administration was uniform, and the principles of government more decisive; that the time was now come when it was necessary for his Majesty to execute the intention which he had long entertained, either to bring the Treasurer to more just sentiments, or to remove him from the important office which he filled, and thus prove to the public that there was no means of preserving power or credit but by supporting the King's measures for the Catholic religion.^b They reminded him of the necessity of taking means to perpetuate the benefits which he designed for the Catholics, and of the alarming facility with which the Tudor princes had made and subverted religious revolutions. Even the delicate question of the succession was agitated, and some had the boldness of throwing out suggestions to James on the most effectual means of ensuring a Catholic successor. These extraordinary suggestions appear to have been in some measure known to Citters, the Dutch minister, who expressed his fears that projects were forming against the rights of the Princess of Orange. The more affluent and considerable Catholics were alarmed at these daring projects. They saw, as clearly as their brethren, the dangers to which they might be exposed under a Protestant successor. But they thought it wiser to entitle themselves to his favour by a moderate exercise of their influence, than to provoke his hostility by precautions so unlikely to be effectual against his succession or his religion. Moderation had its usual fate. The faction of zealots, animated by the superstition,

^a Barillon, 13 September (23 Septembre), 1686. Fox MSS. i. 150.

^b The words of Barillon, "pour l'établissement de la religion Catholique," being capable of two senses, have been translated in the text in a manner which admits of a double interpretation. The context removes all ambiguity in this case.

the jealousy, and the violence of the Queen, became the most powerful. Even at this time, however, the Treasurer was thought likely to have maintained his ground for some time longer, if he had entirely conformed to the King's wishes. His friends Ormond, Middleton, Feversham, Dartmouth, and Preston were not without hope that he might retain office. At last, in the end of October, James declared that Rochester must either go to mass, or go out of office.^a His advisers represented to him that it was dangerous to leave this alternative to the Treasurer, which gave him the means of saving his place by a pretended conformity. The King replied that he hazarded nothing by the proposal, for he knew that Rochester would never conform. If this observation was sincere, it seems to have been rash; for some of Rochester's friends still believed he would do whatever was necessary, and advised him to keep his office at any price.^b The Spanish and Dutch ambassadors expressed their fear of the fall of their last friend in the cabinet; ^c and Louis XIV. considered the measure as certainly favourable to religion and to his policy, whether it ended in the conversion of Rochester or in his dismissal; in acquiring a friend, or in disabling an enemy.^d It was agreed that a conference on the questions in dispute between the Roman and English churches should be held in the presence of Rochester, by Dr. Jane and Dr. Patrick on behalf of the Church of England, and by Dr. Giffard and Dr. Tilden ^e on the part of the Church of Rome. It is not easy to believe that the King or his minister should have considered a real change of opinion as a possible result of such a dispute. Even if the influence of attachment, of antipathy, of honour, and of habit on the human mind were suspended, the conviction of a man of understanding on questions of great importance, then the general object of study and discussion, could hardly be conceived to depend on the accidental superiority in skill and knowledge exhibited by the disputants of either party in the course of a single debate. But the proposal, if made by one party, was too specious and popular to be prudently rejected by the other. They

^a Barillon, 25 Oct. (4 Nov.), 1686. Fox MSS. i. 157. It is curious that the report of Rochester's dismissal is mentioned by N. Luttrell on the same day on which Barillon's despatch is dated.

^b Barillon, 29 Nov. (9 Dec.), 1686. Fox MSS. i. 161.

^c Barillon, 8 Nov. (18 Nov.), 1686. Fox MSS.

^d Le Roi à Barillon. Versailles, 9 (19) Oct. 1686. Fox MSS. i. 162.

^e This peculiarly respectable divine assumed the name of Godden; a practice to which Catholic clergymen were then sometimes reduced to elude persecution.

were alike interested in avoiding the imputation of shrinking from an argumentative examination of their faith. The King was desirous of being relieved from his own indecision by a signal proof of Rochester's obstinacy, and in the midst of his fluctuations he may sometimes have indulged a lingering hope that the disputation might supply a decent excuse for the apparent conformity of his old friend and servant. In all prolonged agitations of the mind, it is in succession affected by motives not very consistent with each other. Rochester foresaw that his popularity among Protestants would be enhanced by his triumphant resistance to the sophistry of their adversaries. He gave the King, by consenting to the conference, a pledge of his wish to carry compliance to the utmost boundaries of integrity. He hoped to gain time. He retained the means of profiting by fortunate accidents. At least he postponed the fatal hour of removal, and there were probably moments in which his fainting virtue looked for some honourable pretence for deserting a vanquished party. The conference took place on the 30th of November.^a Each of the contending parties, as usual, claimed the victory. The Protestant writers, though they agree that the Catholics were defeated, vary from each other. Some ascribe the victory to the two divines, others to the arguments of Rochester himself; and one of the disputants of the English church said that it was unnecessary for them to do much: one writer tells us that the King said he never saw a good cause so ill defended, and all agree that Rochester closed the conference with the most determined declaration that he was confirmed in his religion.^b Giffard, afterwards a Catholic prelate of exemplary character, published an account of the particulars of the controversy, which gives a directly opposite account of it. In the only part of it which can in any degree be tried by historical evidence, the Catholic account of the dispute is more probable. Rochester, if we may believe Dr. Giffard, at the end of the conference, said,—“The disputants have discoursed learnedly, and I desire time to consider.”^c Agreeably to this statement, Barillon, after mentioning the dispute, told his court that Rochester still showed a disposition to be instructed with

^a Dod, Ch. Hist. iii. 419. Barillon's short account of the conference is dated on the 12th December, which, after making allowance for the difference of calendars, makes the despatch to be written two days after the conference, which deserves to be mentioned as a proof of Dod's singular exactness.

^b Burnet, Echard, and Kennet. There are other contradictions in the testimony of these historians, and it is evident that Burnet did not implicitly believe Rochester's own story.

^c Dod, Ch. Hist. iii. 420.

respect to the difficulties which prevented him from declaring himself a Catholic, and he adds that some even then expected that he would determine for conformity.^a This despatch was written two days after the disputation by a minister who could neither be misinformed, nor could have any motive to deceive. Some time afterwards, indeed, Rochester made great efforts to preserve his place, and laboured to persuade the moderate party among the Catholics that it was their interest to support him.^b He did not, indeed, offer to sacrifice his opinions; but a man who, after the loss of all confidence and real power, clung with such tenacity to mere office, under a system of which he disapproved every principle, could hardly be supposed to be unassailable. The violent or decisive politicians of the Catholic party dreaded that Rochester might still take the King at his word, and defeat all their plans by a feigned compliance; James distrusted his sincerity, suspected that his object was to amuse and temporise, and at length, weary of his own irresolution, took the decisive measure of removing the only minister by whom the Protestant party had a hold on his councils.

The place of Lord Rochester was accordingly supplied on the 5th of January, 1687, by commissioners, of whom two were Catholics, Lord Bellasis of the cautious, and Lord Dover of the zealous party; and the remaining three, Lord Godolphin, Sir John Ernley, and Sir Stephen Fox, were probably chosen for their capacity and experience in the affairs of finance.^c Two days afterwards the parliament was prorogued, in which the Protestant Tories, the followers of Rochester, predominated.^d James endeavoured to soften the removal of his minister by a pension of 4000*l.* a year on the Post Office for a term of years, together with the polluted grant of a perpetual annuity of 1700*l.* a year out of the forfeited estate of Lord Grey,^e for the sake of which the King, under a false show of mercy, had spared the life of that nobleman. The King was no longer, however, at pains to conceal his displeasure. He told Barillon that Rochester favoured the French Protestants whom, as a term of reproach, he called Calvinists, and added that this was one of many instances in which the sentiments of the minister were opposite to those of his master.^f He informed D'Adda

^a Barillon, 2 (12) Dec. 1686. Fox MSS. i. 161.

^b Barillon, 20 (30) Dec.

^d Lond. Gaz.

^f Barillon, 3 (13) Jan. 1687. Fox MSS. i. 171.

^c Lond. Gaz.

^e Evelyn, i. 595.

that the Treasurer's obstinate perseverance in error had at length rendered his removal inevitable; but that wary minister adds, that they who had the most sanguine hopes of the final success of the Catholic cause were obliged to own that, at that moment, the public temper was inflamed and exasperated, and that the cry of the people was, that since Rochester was dismissed because he would not become a Catholic, there must be a design to expel all Protestants^a from office.

The fall of Rochester was preceded, and probably quickened, by an important change in the administration of Scotland, and it was also connected with a revolution in the government of Ireland, of both which events it is now necessary to relate the most important particulars.

CHAPTER IV.

SCOTLAND.

Administration of Queensberry.—Conversion of Perth.—Measures contemplated by the King.—Debates in Parliament on the King's Letter.—Proposed Bill of Toleration.—Unsatisfactory to James.—Adjournment of Parliament.—Exercise of Prerogative.

IRELAND.

Character of Tyrconnel.—Review of the State of Ireland.—Arrival of Tyrconnel.—His Appointment as Lord Deputy.—Advancement of Catholics to Offices.—Tyrconnel aims at the Sovereign Power in Ireland.—Intrigues with France.

THE government of Scotland, under the episcopal ministers of Charles II., was such, that, to the Presbyterians, who formed the majority of the people, "their native country had, by the prevalence of prosecution and violence, become as insecure as a den of robbers."^b The chief place in the administration had been filled for some years by Queensberry, a man of ability, the leader of the Episcopal party, who, in that character as well as from a matri-

^a D'Adda, 31 Dec. 1686 (10 Jan. 1687). Presentamente pare che gli animi suonano inaspriti della voce che corre tra il popolo d'esser cacciato il detto ministro per non essere Cattolico, perciò tirarsi al estermínio de Protestanti.

^b Hume, c. ii. vii. 4th edit. 1757.

monial connexion between their families, was disposed to an union of councils with Rochester.^a Adopting the principles of his English friends, he seemed ready to sacrifice the remaining liberties of his country, but resolved to adhere to the Established Church. The acts of the first session in the reign of James are such as to have extorted from a great historian of calm temper, and friendly to the house of Stuart, the reflection that “nothing could exceed the abject servility of the Scotch nation during this period but the arbitrary severity of the administration.”^b Not content with servility and cruelty for the moment, they laid down principles which would render slavery universal and perpetual, by assuring the King “that they abhor and detest all principles and positions which are contrary or derogatory to the King’s sacred, supreme, absolute power and authority, which none, whether persons or collective bodies, can participate of, in any manner or on any pretext, but in dependence on him and by commission from him.”^c

But the jealousies between the King’s party and that of the Church among the Scotch ministers were sooner visible than those between the corresponding factions in the English council, and they seem, in some degree, to have limited the severities which followed the revolt of Argyle. The privy council, at the intercession of some ladies of distinction, prevented the Marquis of Athol from hanging Mr. Charles Campbell, then confined by a fever, at the gates of his father’s castle of Inverary;^d and it was probably by their representations that James was induced to recall instructions which he had issued to the Duke of Queensberry for the suppression of the name of Campbell,^e which would have amounted to a proscription of several noblemen, a considerable body of gentry, and the most numerous and powerful tribe in the kingdom. They did not, however, hesitate in the execution of the King’s orders to dispense with the test in the case of four peers and twenty-two gentlemen, who were required by law to take it before they exercised the office of commissioners to assess the supply in their respective counties.^f

The Earl of Perth, the Chancellor of Scotland, began now to attack Queensberry by means somewhat similar to those employed

^a Lord Drumlanerig, the son of Queensberry, had married Lady — Boyle, the niece of Lady Rochester.

^b Hume, James II. c. 1.

^c Acta Parl. viii. 459.—18th April, 1688.

^d Fountainhall’s Chron. Notes, i. 366.—16th July, 1685.

^e Warrant, 1st June, 1685. State Paper Office.

^f Warrant, 7th Dec. 1685. State Paper Office.

by Sunderland against Rochester. Queensberry had two years before procured the appointment of Perth, as it was believed, by a sum of 27,000*l.* of public money, to the Duchess of Portsmouth. Under a new reign, when that lady was by no means a favourite, both Queensberry and Perth apprehended a severe inquisition into this misapplication of public money.^a Perth, whether actuated by fear or ambition, made haste to consult his security and advancement by conforming to the religion of the court, on which Lord Halifax observed, that "his faith had made him whole." Queensberry adhered to the Established Church. The Chancellor soon began to exercise that ascendancy which he acquired by his conversion, in such a manner as to provoke immediate demonstrations of the zeal against the Church of Rome, which the Scotch Presbyterians carried farther than any other reformed community. He issued an order against the sale of any books without license, which was universally understood as intended to prevent the circulation of controversial writings against the King's religion. Glen, a bookseller in Edinburgh, when he received this warning, said, that he had one book which strongly condemned popery, and desired to know whether he might continue to sell it. Being asked what the book was, he answered, "The Bible."^b Shortly afterwards the populace manifested their indignation at the public celebration of mass by riots, in the suppression of which several persons were killed. A law to inflict adequate penalties on such offences against the security of religious worship would have been perfectly just. But as the laws of Scotland had, however unjustly, made it a crime to be present at the celebration of mass, it was said, with some plausibility, that the rioters had only dispersed an unlawful assembly. The lawyers evaded this difficulty by the ingenious expedient of keeping out of view the origin and object of the tumults, and prosecuted the offenders, merely for *rioting* in violation of certain ancient statutes, some of which rendered that offence capital. This riot was pursued with such singular barbarity, that one Keith, who was not present at the tumult, was executed for having said, that he would help the rioters, and for having drank confusion to all Papists, though he at the same time drank the health of the King, and though in both cases he only followed the example of the witnesses on whose evidence he was convicted. Attempts were vainly

^a Fountainhall's Chron. Notes, i. 189.

^b Fountainhall, i. 390.—28th Jan. 1686.

made to persuade this poor man to charge Queensberry with being accessory to the riots, which he had freely ridiculed in private. That nobleman was immediately after removed from the office of treasurer, but he was at the same time appointed Lord President of the Council with a pension, that the court might retain some hold on him during the important discussions at the approaching session of parliament. The King communicated to the secret committee of the Scotch privy council his intended instructions to the commissioner relative to the measures to be proposed to parliament. They comprehended the repeal of the test, the abrogation of the sanguinary laws as far as they related to papists, the admission of these last to all civil and military employments, and the confirmation of all the King's dispensations, even in the reigns of his successors, unless they were recalled by parliament. On these terms he declared his willingness to assent to any law (not repugnant to these things) for securing the Protestant religion, the personal dignities, offices, and possessions of the clergy, and for continuing all laws against fanaticism.^a The privy council manifested some unwonted scruples about these propositions. James answered them angrily.^b Perplexed by this unexpected resistance, as well as by the divisions in the Scottish councils, and the repugnance shown by the Episcopalian party to any measure which might bring the privileges of Catholics more near to a level with their own, he commanded the Duke of Hamilton and Sir George Lockhart, President of the Court of Session, to come to London, with a view to ascertain their inclinations, and dispose them favourably to his objects, but under colour of consulting them on the nature of the relief which it might be prudent to propose for the members of his own communion.^c The Scotch negociators (for as such they seem to have acted) conducted the discussion with no small discretion and dexterity. They professed their readiness to concur in the repeal of the penal and sanguinary laws against Catholics; observing, however, the difficulty of proposing to confine such an indulgence to one class of dissidents, and the policy of moving for a general toleration, which it would be as much the interests of Presbyterians as of Catholics to promote. They added, that it might be more politic not to propose the repeal of the test as a measure of government, but to leave it to the spontaneous disposition of

^a State Paper Office, 4th March, 1686.

^b *Ibid.* 18th March, 1686.

^c Fountainhall, i. 410.—26th March, 1686.

parliament, who would very probably repeal a law which in Scotland was aimed against Presbyterians as exclusively as it had in England been intended to exclude Catholics, or to trust to the King's dispensing power, which was there undisputed, as indeed every part of the prerogative was in that country held to be above question, and without limits.^a

These propositions embarrassed James and his more zealous counsellors. The King struggled obstinately against the extension of the liberty to the Presbyterians. The Scotch counsellors required, that if the test were repealed, the King should bind himself by the most solemn promise to attempt no farther alteration or abridgment of the privileges of the Protestant clergy. James did not conceal from them his repugnance thus to confirm and to secure the establishment of a heretical church. He imputed the pertinacity of Hamilton to the insinuations of Rochester, and that of Lockhart to the still more obnoxious influence of his father-in-law, Lord Wharton.^b

The Earl of Murray, a recent convert to the Catholic religion, opened the parliament on the 29th of April, and laid before parliament a royal letter, which exhibited traces of the indecision and ambiguity which were the natural consequence of the unsuccessful issue of the conferences in London. He begins with holding out the temptation of a free trade with England, and after tendering an ample amnesty, proceeds to state, that while the King shows these acts of mercy to the enemies of his crown and royal dignity, he cannot be unmindful of his Roman Catholic subjects, who had adhered to the crown in rebellions and usurpations, though they lay under discouragements hardly to be named. He recommends them to the care of parliament, and desires that they may have the protection of the law and the same security with other subjects, without being laid under obligations which their religion will not admit of. "This love," he says, "we expect ye will show to your brethren, as you see we are an indulgent father to you all."^c

At the next sitting an answer to the letter was voted, thanking the King for his endeavours to procure a free trade with England, expressing the utmost admiration of the offer of amnesty to such desperate rebels against so merciful a prince, and declaring, "as

^a Barillon, 10 (22) Avril. Fox MSS. i. 119.

^b Barillon, 19 (29) Avril, 1686. Fox MSS. i. 121.

^c Act. Parl. Scot. viii. 580.

to that part of your Majesty's letter which relates to your subjects of the Roman Catholic persuasion, we shall, in obedience to your Majesty's commands, and in tenderness to their persons, take the same into our serious and dutiful consideration, and go as great lengths therein as our consciences will allow ;" concluding with these words, which were the more significant because they were not called for by any correspondent paragraph in the King's letter : — " Not doubting that your Majesty will be careful to secure the Protestant religion established by law. " Even this answer, cold and guarded as it was, did not pass without some debate, important only as indicating the temper of the assembly. The words, " subjects of the Roman Catholic religion," were objected to, " as not to be given by parliament to individuals, whom the law treated as criminals, and to a church which Protestants could not, without inconsistency, regard as entitled to the appellation of Catholic." Lord Fountainhall proposed as an amendment, the substitution of " those commonly called Roman Catholics." The Earl of Perth called this nicknaming the King, and proposed, " those subjects your Majesty has recommended." The Archbishop of Glasgow supported the original answer, upon condition of an entry in the Journals, declaring that the words were used only out of courtesy to the King, as a repetition of the language of his letter. A minority of 56 in a house of 182 voted against the original words, even though they were to be thus explained.^a Some members doubted whether they could sincerely profess a disposition to go any farther lengths in favour of the Romanists, they being conscientiously convinced that all the laws against the members of that communion ought to continue in force. The parliament having been elected under the administration of Queensberry, the episcopal party was very powerful both in that assembly and in the committee called the Lords of the Articles, with whom alone a bill could originate. The Scottish Catholics were an inconsiderable body ; and the Presbyterians, though comprehending the most intelligent, moral, and religious part of the people, so far from having any influence in the legislature, were proscribed as criminals, and subject to a more cruel and sanguinary persecution from their Protestant brethren than either of these communions

^a Fountainhall, i. 413.—13th May, 1686.

had ever experienced from Catholic rulers.^a Those of the prelates whose virtues extended so far as to prefer the interest of their order to their own were dissatisfied even with the very limited measure of toleration laid before the Lords of the Articles, which only proposed to exempt Catholics from punishment on account of the private exercise of their religious worship.^b The primate was alarmed by a hint thrown out by the Duke of Hamilton, that a toleration so limited might be granted to dissenting Protestants;^c nor, on the other hand, was the resistance of the prelates softened by the lure held out by the King in his first instructions, that if they would remove the test against Catholics they should be indulged in the persecution of their fellow Protestants. The lords of the articles were forced to introduce into the bill two clauses; one declaring their determination to adhere to the established religion, the other expressly providing, that the immunity and forbearance shall not derogate from the laws which required the oath of allegiance and the test to be taken by all persons in offices of public trust.^d The arguments on both sides are to be found in pamphlets then printed at Edinburgh; those for the Government publicly and actively circulated, those of the opposite party disseminated clandestinely.^e The principal part, as in all such controversies, consists in personalities, recriminations, charges of inconsistency, and addresses to prejudice, which scarcely any ability can render interesting after the passions from which they spring have subsided and are forgotten. It happened, also, that temporary circumstances required or occasioned the best arguments not to be urged by the disputants. Considered on general principles, the bill, like every other measure of toleration, was justly liable to no permanent objection but its incompleteness and partiality. But no Protestant sect was then so tolerant as to object to the

^a Woodrow, ii. 498.: — an avowed partisan, but a most sincere and honest writer, to whom great thanks are due for having preserved that collection of facts and documents which will for ever render it impossible to extenuate the tyranny exercised over Scotland from the Restoration to the Revolution.

^b Woodrow, ii. 594.

^c Fontainhall, i. 415.

^d Woodrow, ii. App. No. cxvi.

^e Woodrow, ii. App. 163—177, who ascribes the court pamphlet to Sir R. L'Estrange, in which he is followed by Mr. Laing, though in the answer that pamphlet is said to be written by a clergyman who had preached before the parliament. L'Estrange was then in Edinburgh, probably engaged in some more popular controversy. The tract in question seems more likely to have been written by Paterson, Bishop of Edinburgh.

imperfection of the relief to be granted to Catholics; and the ruling party in the parliament were neither entitled nor disposed to complain, that the Protestant Nonconformists, whom they had so long persecuted, were not to be comprehended in the toleration. The only objection which could reasonably be made to the tolerant principles, now for the first time inculcated by the advocates of the Court, was, that they were not proposed with good faith, and were not proposed for the relief of the Catholics but for the subversion of the Protestant church, and the ultimate establishment of popery, with all the horrors which were to follow in its train. The present effects of the bill were a subject of more urgent consideration than its general character. It was more necessary to ascertain the purpose which it was intended and calculated to promote at the instant, than to examine the principles on which such a measure, in other circumstances and in all common times, might be perfectly wise and just. Even then, had any man been liberal and bold enough to propose universal and perfect liberty of worship, the adoption of such a measure would probably have afforded the most effectual security against the designs of the crown. But very few entertained so generous a principle: of these, some might doubt the wisdom of its application in that hour of peril, and no man could have proposed it with any hope that it could be adopted by the majority of such a parliament. It can hardly be a subject of wonder, that the established clergy, without any root in the opinions and affections of the people, on whom they were imposed by law, and against whom they were maintained by persecution, should not in the midst of conscious weakness have had calmness and fortitude enough to consider the policy of concession but trembling for their unpopular dignities and invidious revenues, should recoil from the surrender of the most distant outpost which seemed to guard them, and struggle with all their might to keep those who threatened to become their most formidable rivals under the brand, at least, if not the scourge of penal laws. It must be owned, that the language of the court writers was not calculated either to calm the apprehensions of the Church or to satisfy the solicitude of the friends of liberty. These writers told the parliament, "that if the King were exasperated by the rejection of the bill, he might, without the violation of any law, alone remove all Protestant officers and judges from the government of the State, and all protestant bishops and ministers from the

government of the Church ;”^a—a threat the more alarming, because the dispensing power seemed sufficient to carry it into effect in civil offices, and the Scotch act of supremacy,^b passed in one of the paroxysms of servility which were frequent in the first years of the Restoration, appeared to afford the means of fully accomplishing it against the Church.

The unexpected obstinacy of the Scottish parliament alarmed and offended the Court. Their answer did not receive the usual compliment of publication in the Gazette. Orders were sent to Edinburgh to remove two privy counsellors;^c to displace Seton, a judge, and to deprive the Bishop of Dunkeld of a pension, for their conduct in parliament. Sir George Mackenzie, himself, the most eloquent and accomplished Scotchman of his age, was for the same reason dismissed from the office of Lord Advocate. It was in vain that he had dishonoured his genius by being for ten years the advocate of tyranny and the minister of persecution. All his ignominious claims were cancelled by the independence of one day. It was hoped that such examples might strike terror.^d Several noblemen, who held commissions in the army, were ordered to repair to their posts. Some members were threatened with the avoidance of their elections.^e A prosecution was commenced against the Bishop of Ross, and the proceedings were studiously protracted, to weary out the poorer part of those who refused to comply with the court. The ministers scrupled at no expedient for seducing, or intimidating, or harassing. But these expedients proved ineffectual. The majority of the parliament adhered to their principles. The session lingered for about a month in the midst of ordinary or unimportant affairs.^f The Bill for Toleration was not brought up by the Lords of the Articles. The commissioners, doubting whether it would be carried, and probably instructed by the court that it would neither satisfy the expectations nor pro-

^a Woodrow, ii. App. 166.

^b 1669.

^c The Earl of Glencairn and Sir W. Bruce.

^d Fountainhall, i. 414. 17th May, 1686.

^e Ibid. 419.

^f Among the frivolous but characteristic transactions of this session was the Bore Brief, or authenticated pedigree granted to the Marquis de Seignelai, as a supposed descendant of the ancient family of Cuthbert of Castlehill, in Inverness-shire. His father, the great Colbert, who appears to have been the son of a reputable woollen-draper of Troyes, had attempted to obtain the same certificate of genealogy, but such was the pride of birth at that time in Scotland, that his attempts were vain. It now required all the influence of the court, set in motion by the solicitations of Barillon, to obtain it for Seignelai. By an elaborate display of all the collateral relations of the Cuthberts, the Bore Brief connects Seignelai with the royal family, and with all the nobility and gentry of the kingdom. Act. Parl. Scot. viii. 611.

mote the purposes of the King, in the middle of June adjourned the parliament, which was never again to assemble. It was no wonder that the King should have been painfully disappointed by the failure of his attempt; for after the conclusion of the session, it was said by zealous and pious Protestants, that nothing less than a special interposition of Providence could have infused into such an assembly a steadfast resolution to withstand the court.^a The royal displeasure was manifested by measures of a very violent sort. The despotic supremacy of the King over the Church was exercised by depriving Bruce of his bishopric of Dunkeld, for his parliamentary conduct;^b a severity which, not long after, was repeated in the deprivation of Cairncross, Archbishop of Glasgow, for some supposed countenance to an obnoxious preacher, though that prelate laboured to avert it by promises of support to all measures favourable to the King's religion.^c A few days after the prorogation, Queensberry was dismissed from all his offices, and required not to leave Edinburgh until he had rendered an account of his administration of the treasury.^d Some part of the royal displeasure fell upon Sir George Mackenzie, the Lord Register, lately created Lord Cromarty, the most submissive servant of every government, for having flattered the King, by too confident assurances of a majority as obsequious as himself. The connexion of Rochester with Queensberry now aggravated the offence of the latter, and prepared the way for the downfall of the former. Murray, the commissioner, promised positive proofs, but produced at last only such circumstances as were sufficient to confirm the previous jealousies of James, that the Scotch opposition were in secret correspondence with pensionary Fagel, and even with the Prince of Orange.^e Sir George Mackenzie, whose unwonted independence seems to have speedily faltered, was refused an audience of the King, when he visited London with the too probable purpose of making his peace. The most zealous Protestants being soon afterwards removed from the privy council, and the principal noblemen of the Catholic communion being introduced

^a Fountain. i. 419. I forbear to transcribe the somewhat profane comparison to the remark of an Irish soldier on the Garter being bestowed on Feversham after the battle of Sedgemoor, to the success of which he had so little contributed.

^b Fountain. i. 416.

^c Fountain. i. 441. Skinner, Eccles. Hist. ii. 503.

^d Fountain. i. 420.

^e Barillon, 20 June (1 Juillet), 1686. 12 July (22 Juillet), 1686. Fox MSS. i. 137—139. It will appear in the sequel, that these suspicions are at variance with probability, and unsupported by evidence.

in their stead, James addressed a letter to the council, informing them that his application to parliament had not arisen from any doubt of his own power to stop the severities against Catholics, declaring his intention to allow the exercise of the Catholic worship, and to establish a chapel for that purpose in his own palace of Holyrood House; and intimating to the judges, that they were to receive the allegation of this allowance as a valid defence, any law to the contrary notwithstanding.^a The warm royalists, in their proposed answer, expressly acknowledged the King's prerogative to be a legal security. But the council, in consequence of an objection of the Duke of Hamilton, faintly asserted their independence, by substituting "sufficient" instead of "legal."^b

The determination was thus avowed of pursuing the objects of the King's policy in Scotland by the exercise of prerogative, at least until a more compliant parliament could be obtained, who would not only remove all doubt for the present, but protect the Catholics against the recall of the dispensations by James's successors. The means principally relied on for the accomplishment of that object was the power now assumed by the King to stop the annual elections in burghs, to nominate the chief magistrates, and through them to command the election by more summary proceedings than those of the English courts.^c The choice of ministers corresponded with the principles of administration. The disgrace of the Duke of Hamilton, a few months later,^d completed the transfer of power to that party who professed an unbounded devotion to the principles of their master in the government both of Church and State. The measures of the Government did not belie their professions. Sums of money, considerable when compared with the scanty revenue of Scotland, were employed in support of establishments for the maintenance and propagation of the Roman Catholic religion. 1400*l.* a year were granted, in equal portions, to the Catholic missionaries, to the Jesuit missionaries, to the mission in the Highlands, to the Chapel Royal, and to each of the Scotch colleges at Paris, Douay, and Rome.^e A separate grant of 1200*l.* was soon afterwards

^a Woodrow, ii. 598. Letter, 21st Aug. 1686.

^b Fount. i. 424. 16th Sept. 1686.

^c Fount. *ibid.*

^d Fount. i. 449—451. Letter in State Paper Office, 1st March, 1687, expressing the King's displeasure at the conduct of Hamilton, and directing the names of his sons-in-law, Panmure and Dunmore, to be struck out of the list of the council.

^e Warrants in the State Paper Office, 19th May, 1687.

made to Mr. Innes, Rector of the Scotch College, on account of that institution.^a The Duke of Hamilton, Keeper of the Palace, was commanded to surrender the Chancellor's apartments in Holyrood House to a college of Jesuits.^b By a manifest partiality, two thirds of the allowance made by Charles the Second to indigent royalists were directed to be paid to Catholics; and all pensions and allowances to persons of that religion were required to be paid in the first place, in preference to all other pensions.^c Some of these grants, it is true, if they had been made by a liberal sovereign in a tolerant age, were in themselves justifiable; but neither the character of the King, nor the situation of the country, nor the opinions of the times, left any reasonable man at liberty then to doubt their purpose, and some of them were attended by circumstances which would be remarkable as proofs of the infatuated imprudence of the King and his counsellors, if they were not more worthy of observation as symptoms of that insolent contempt with which they trampled on the provisions of law, and on the strongest feelings of the people.

The government of Ireland, as well as that of England and Scotland, was, at the accession of James, allowed to remain in the hands of Protestant Tories. The Lord-lieutenancy was, indeed, taken from the Duke of Ormond, then far advanced in years, but it was bestowed on a nobleman of the same party, Lord Clarendon, whose moderate understanding added little to those claims on high office, which he derived from his birth, connexions, and opinions. But the feeble and timid Lord Lieutenant was soon held in check by Richard Talbot,^d then created Earl of Tyrconnel, a Catholic gentleman of ancient English extraction, who joined

^a Ibid. 28th June, 1687.

^b Ibid. 15th August, 1687.

^c Ibid. 7th January, 1688.

^d The means by which Talbot obtained the favour of James, if we may believe the accounts of his enemies, were somewhat singular. "Clarendon's daughter had been got with child in Flanders, on a pretended promise of marriage, by the Duke of York, who was forced by the King, at her father's importunity, to marry her, after he had resolved the contrary, and got her reputation blasted by Lord Fitzharding and Colonel Talbot, who impudently affirmed that they had received the last favours from her." Sheridan's Reflections, &c., MSS. in Stuart Papers, p. 53. "5th July, 1694. Sir E. Harley told us, that when the Duke of York, resolved on putting away his first wife, particularly on discovery of her commerce with ———, she, by her father's advice, turned Roman Catholic, and thereby secured herself from reproach, and that the pretence of her father's opposition to it was only to act a part, and secure himself from blame." MSS. in the handwriting of Lord Treasurer Oxford, in the possession of the Duke of Portland. The latter of these passages must refer to the time of the marriage, from the concluding part of it. But it must not be forgotten that both the reporters were the enemies of Clarendon, and Sheridan the bitter enemy of Tyrconnel.

talents and spirit to violent passions, boisterous manners, unbounded indulgence in every excess, and a furious zeal for his religious party. His character was tainted by that disposition to falsehood and artifice, which, however seemingly inconsistent with violent passions, is often combined with them, and he possessed more of the beauty and bravery than of the wit or eloquence of his unhappy nation. He was first introduced to Charles II. and his brother before the Restoration, as one who was willing to assassinate Cromwell, and made a journey into England with that resolution. He soon after received an appointment in the household of the Duke of York, and retained the favour of that prince during the remainder of his life. In the year 1666, he was imprisoned for a few days by Charles II., for having resolved to assassinate the Duke of Ormond, with whose Irish administration he was dissatisfied.^a He did not, however, even by the last of these criminal projects, forfeit the patronage of either of the royal brothers, and at the accession of James held a high place among that prince's personal favourites. He was induced, both by zeal for the Catholic party, and by animosity against the family of Hyde, to give effectual aid to Sunderland in the overthrow of Rochester, and required in return that the conduct of Irish affairs should be left to him.^b Sunderland dreaded the temper of Tyrconnel, and was desirous of performing his part of the bargain with as little risk as possible to the quiet of Ireland. Tyrconnel at first contented himself with the rank of senior General Officer on the Irish staff, and he returned to Dublin in June, 1686, as the avowed favourite of the King, with powers to new-model the army; and his arrival was preceded by reports of extensive changes in the government of the kingdom.^c The state, the church, the administration, and the property of that unhappy island, were bound together by such unnatural ties, and placed on such weak foundations, that every rumour of alteration in one of them spread the deepest alarm for the safety of the whole. From the colonisation of a small part of the eastern coast under Henry II., till the last years of the reign of Elizabeth, an unceasing and cruel warfare was waged by the English governors against the princes and chiefs of the Irish tribes, with little other effect than that of

^a Clarendon's Life, continuation, 362.

^b Sheridan's Historical Account, MSS., 79 P. *Stuart Papers*.

^c Clarendon's Letters, i. *passim*.

preventing the progress of civilisation of the Irish, of replunging many of the English into barbarism, and of generating that deadly animosity between the natives and the invaders, under the names of Irishry and Englishry, which, assuming various forms, and exasperated by a fated succession of causes, has continued even to our days the source of innumerable woes. During that dreadful period of four hundred years, the laws of the English colony did not punish the murder of a man of Irish blood as a crime.^a Even so late as the year 1547, the Colonial Assembly, called a parliament, confirmed the insolent laws which prohibited the English of the pale from marrying persons of Irish blood.^b Religious hostility inflamed the hatred of these mortal foes. The Irish, attached to their ancient opinions as well as usages, and little addicted to doubt or enquiry, rejected the Reformation of religion offered to them by their enemies. The Protestant worship became soon to be considered by them as the odious badge of conquest and oppression.^c The ancient religion was endeared by persecution, and by its association with the name, the language, and the manners of their country. The island had long been represented as a fief of the see of Rome; the Catholic clergy, and even laity, had no unchangeable friend but the sovereign pontiff, and their chief hope of deliverance from a hostile yoke was long confined to Spain, the leader of the Catholic party in the European commonwealth. The old enmity of Irishry and Englishry thus appeared with redoubled force under the new names of Catholic and Protestant. The necessity of self-defence compelled Elizabeth to attempt the complete reduction of Ireland, which, since she had assumed her station at the head of Protestants, became the only vulnerable part of her dominions, and a weapon in the hands of her most formidable

^a Sir J. Davies's Discoverie, &c., 102—112. Edit. 1747. "They were so far out of the protection of the laws that it was often adjudged no felony to kill a mere Irishman in time of peace,"—except he were of the five privileged tribes of the O'Neils of Ulster, the O'Malaghlin of Meath, the O'Connors of Connaught, the O'Briens of Thomond, and the MacMurroughs of Leinster; to whom are to be added the Ostmen of the city of Waterford. See also Leland, Hist. of Ireland, book i. c. 3.

^b Ir. Stat. 28 Hen. VIII. c. 13. "The English," says Sir W. Petty, "before Henry VII.'s time, lived in Ireland as the Europeans do in America." Pol. Anat. 112.

^c That the hostility of religion was, however, a secondary prejudice superinduced on hostility between nations, appears very clearly from the laws of Catholic sovereigns against the Irish, even after the Reformation, particularly the Irish statute of 3 & 4 Phil. & Mar. c. 2., against the O'Mores and O'Dempsies, and O'Connors, "and others of the Irishry."

enemies. But few of the benefits which sometimes atone for conquest were felt by Ireland. Neither the success with which Elizabeth broke the barbaric power of the Irish chieftains, nor the real benevolence and seeming policy of introducing industrious colonies under her successor, counterbalanced the dreadful evil which was then for the first time added to her hereditary sufferings. The extensive forfeiture of the lands of the Catholic Irish, and the grant of these lands to Protestant natives of Great Britain, became a new source of hatred between these irreconcilable factions. Forty years of quiet, however, followed, in which a parliament of all districts, and of both religions, was assembled. The administration of the Earl of Strafford bore the stamp of the political vices which tarnished his genius, and which often prevailed over those generous affections of which he was not incapable towards those who neither rivalled nor resisted him. The state of Ireland abounded with temptations to a man of daring and haughty spirit, intent to tame a turbulent people, and impatient of the slow discipline of law and justice, to adopt those violent and summary measures of which his nature prompted him too easily to believe the necessity.^a When his vigorous arm was withdrawn, the Irish were once more excited to revolt by the memory of the provocations which they and received from him and from his predecessors, by the feebleness of the government of Ireland, and by the confusion and distraction which announced the approach of civil war in Great Britain. This insurrection, which broke out in 1641, and of which the atrocities appear to have been extravagantly exaggerated^b by the writers of the victorious party, was only finally subdued by the genius of Cromwell, who, urged by the general antipathy against the Irish,^c and the peculiar animosity of his own followers towards Catholics, exercised more than once in his Irish campaigns the most odious rights or practices of war, and departed in his treatment of that constantly unhappy country from that clemency which usually

^a Carte's Ormond, and the Confessions of Clarendon, together with the Evidence on the trial of Strafford.

^b Evidence of the exaggeration is to be found in Carte and Leland, in the "Political Anatomy of Ireland," by Sir W. Petty, to say nothing of Curry's "Civil Wars," which, though the work of an Irish Catholic, deserves the serious consideration of every historical enquirer. Sir W. Petty limits the number of Protestants killed throughout the island, in the first year of the war, to 37,000. The massacres were confined to Ulster, and in that province were imputed only to the detachment of insurgents under Sir Phelim O'Neale.

^c Even Milton calls the Irish Catholics, or, in other words, the Irish nation, "Conscelerata et barbara colluvies."

distinguished him above most men who have obtained the supreme power by violence. The confiscations which followed his victories, added to the forfeitures under Elizabeth and James, transferred more than two thirds of the land of the kingdom to British adventurers.^a “Not only all the Irish nation (with very few exceptions) were found guilty of the rebellion, and forfeited all their estates, but all the English Catholics of Ireland were declared to be under the same guilt.”^b The ancient proprietors conceived sanguine hopes, that confiscations by usurpers would not be ratified by the restored government. But their agents were inexperienced, indiscreet, and sometimes mercenary. Their opponents, who were in possession of power and property, chose the Irish House of Commons, and secured the needy and rapacious courtiers of Charles II. by large bribes.^c The court became a mart at which much of the property of Ireland was sold to the highest bidder: the inevitable result of measures not governed by rules of law, loaded with exceptions and conditions, where the artful use of a single word might affect the possession of considerable fortunes, and where so many minute particulars relating to unknown and uninteresting subjects were necessarily introduced, that none but parties deeply concerned had the patience to examine them.

Charles was desirous of an arrangement which should give him the largest means of quieting, by profuse grants, the importunity of his favourites. He began to speak of the necessity of strengthening the English interest in Ireland, and he represented the settlement rather as a matter of policy than of justice. The usual and legitimate policy of statesmen and lawgivers is, doubtless, to favour every measure which quiets present possession, and to discourage all retrospective inquiry into the tenure of property. But the Irish government professed to adopt a principle of compromise, and the general object of the statute called the Act of Settlement, was to secure the land in the hands of its possessors, on condition of their making a certain compensation to those classes of expelled proprietors who were considered as innocent of the rebellion. Those, however, were declared not

^a Petty's Pol. Anat. 1—3. London. 1691.

^b Life of Clarendon, ii. 115. 8th edit. Oxford. 1759.

^c Carte's Ormond, ii. 295., &c. Talbot, afterwards Earl of Tyrconnel, returned to Ireland with 18,000*l*.

to be innocent who had accepted the terms of peace granted by the King in 1648, who had paid contributions to support the insurgent administration, or who enjoyed any real or personal property in the districts occupied by the rebel army. The first of these conditions was singularly unjust; the two latter must have comprehended many who were entirely innocent, and all of them were inconsistent with those principles of compromise and provision for the interest of all on which the act was professedly founded. Ormond, however, restored to his own great estates, and gratified by a grant of 30,000*l.* from the Irish Commons, acquiesced in this measure, and it was not opposed by his friend Clarendon; circumstances which naturally, though perhaps not justly, have rendered the memory of these celebrated men odious to the Irish Catholics. During the whole reign of Charles II. they struggled to obtain a repeal of the Act of Settlement. But time opposed his mighty power to their labours. Every new year strengthened the rights of the possessors, and furnished additional objections against the claims of the old owners. It is far easier to do mischief than to repair it; and it is one of the most malignant properties of extensive confiscation that it is commonly irreparable. The land is shortly sold to honest purchasers; it is inherited by innocent children; it becomes the security of creditors; its safety becomes interwoven, by the complicated transactions of life, with all the interests of the community. One act of injustice is not atoned for by the commission of another against parties who may be equally unoffending. In such cases the most specious plans for the investigation of conflicting claims either lead to endless delay, attended by the entire suspension of the enjoyment of the disputed property, if not by a final extinction of its value, or to precipitate injustice, arising from caprice, from favour, from enmity, or from venality. The resumption of forfeited property, and the restoration of it to the heirs of the ancient owners, may be attended with all the mischievous consequences of the original confiscation; by the disturbance of habits, and by the disappointment of expectations, and by an abatement of that reliance on the inviolability of legal possession, which is the main-spring of industry, and the chief source of comfort.

The arrival of Tyrconnel revived the hopes of the Catholics. They were at that time estimated to amount to 800,000 souls; the

English Episcopalians, the English Nonconformists, and the Scotch Presbyterians, each to 100,000. ^a There was an army of 3000 men, which in the sequel of this reign was raised to 8000, and the net revenue afforded a yearly average of 300,000*l.* ^b Before the civil war of 1641, the disproportion of numbers of Catholics to Protestants was much greater, and by the consequences of that event, the balance of property was entirely reversed. ^c “In playing of this game or match” (the war of 1641) “upon so great odds, the English,” says Sir William Petty, “won, and have a gamester’s right at least to their estates.” ^d On the arrival of Tyrconnel, too, were redoubled the fears of the Protestants for possessions always invidious, and now, as it seemed, about to be precarious. The attempt to give both parties a sort of representation in the government, and to balance the Protestant Lord Lieutenant by a Catholic commander of the army, unsettled the minds of the two communions. The Protestants, though they saw that the rising ascendant of Tyrconnel would speedily become irresistible, were betrayed into occasional indiscretion by the declarations of the Lord Lieutenant; and the Catholics, aware of their growing force, were only exasperated by Clarendon’s faint and fearful show of zeal for the established laws. The contemptuous disregard, or rather indecent insolence, manifested by Tyrconnel in his conversations with Lord Clarendon, betrayed a consciousness of the superiority of a royal favourite over a Lord Lieutenant, who was to execute a system to which he was disinclined, and to remain in office a little longer only as a pageant of state. He indulged all his habitual indecencies and excesses; he gave the loose to every passion, and threw off every restraint of good manners in these conversations. It is difficult to represent them in a manner compatible with the decorum of history. Yet they are too characteristic to be passed over. ^e “You must know, my Lord,” said Tyrconnel, “that the King is a Roman Catholic, and resolved to employ his subjects of

^a Petty’s Political Anatomy, 8. As Sir William Petty exaggerates the population of England, which he rates at six millions, considerably more than its amount in 1700 (Population Ret. 1821, Introduct.), it is probable he may have overrated that of Ireland; but there is no reason to suspect mistake in the proportions.

^b Supposing the taxes then paid by England and Wales to have been about three millions, each inhabitant contributed ten shillings, while each Irishman paid somewhat more than five.

^c Petty’s Pol. Anat. 24.

^d Idem.

Diary of Henry, Earl of Clarendon, 5th to 14th June, 1686. Letters, i. 277, &c.

that religion, and that he will not keep one man in his service who ever served under the usurpers. The sheriffs you have made are generally rogues and old Cromwellians. There has not been an honest man sheriff in Ireland these twenty years." Such language, intermingled with oaths, and uttered in the boisterous tone of a braggart youth, somewhat intoxicated, in a military guard-house, are specimens of the manner in which Tyrconnel delivered his opinions to his superior on the gravest affairs of state. It was no wonder that Clarendon told his brother Rochester, "If this Lord continue in the temper he is in, he will gain here the reputation of a madman; for his treatment of people is scarce to be described."^a The more moderate of his own communion, comprehending almost all laymen of education or fortune, he reviled as trimmers. He divided the Catholics, and embroiled the King's affairs still farther by a violent prejudice against the native Irish, whom he contemptuously called the O's and Macs.^b To the letter of the King's public declarations, or even positive instructions to the Lord Lieutenant, he paid very little regard. He was sent by James "to do the rough work" of remodelling the army and the corporations. With respect to the army, the King professed only to admit all his subjects on an equal footing, without regard to religion. But Tyrconnel's language, and, when he had the power, his measures, led to the formation of a Catholic army.^c The Lord Lieutenant reasonably understood the royal intentions to be no more than that the Catholic religion should be no bar to the admission of persons otherwise qualified into corporations. Tyrconnel disregarded such distinctions, and declared, with one of his usual oaths, "I do not know what to say to that; I would have all the Catholics in."^d Three unexceptionable judges of the Protestant persuasion were, by the King's command, removed from the bench to make way for three Catholics, Daly, Rice, and Nugent; also, it ought to be added, of unobjectionable character and competent learning in their profession.^e Officious sycophants hastened to prosecute those incautious Protestants who, in the late times of zeal against popery, had spoken with freedom against the succession of the Duke of York,

^a Diary of Henry Earl of Clarendon. 308.

^b Sheridan MSS.

^c Sheridan MSS. It should be observed, that the passages relating to Ireland in the Life of James II., vol. ii. p. 59—63, were not written by the King, and do not even profess to be founded on the authority of his MSS. They are merely a statement made by Mr. Dicconson, the compiler of that work.

^d Clar. 20th July, 1686, and 31st July, 1686.

^e Clar. 19th June, 1686.

though it is due to justice to remark, that the Catholic council, judges, and juries, discouraged these vexatious prosecutions, and prevented them from producing any very grievous effects. The King had in the beginning solemnly declared his determination to adhere to the Act of Settlement; but Tyrconnel, with his usual imprecations, said to the Lord Lieutenant, "These Acts of Settlement, and this new interest, are ———— things." ^a The coarseness and insolence of Tyrconnel could not fail to offend the Lord Lieutenant. But it is apparent, from his own description, that he was still more frightened than provoked, and perhaps more decorous language would not have so suddenly and completely subdued the little spirit of the demure Lord. Certain it is that these scenes of violence were immediately followed by the most profuse professions of his readiness to do whatever the King required, without any reservation even of the interest of the Established Church. These professions were not merely formularies of that ignoble obsequiousness which degrades the inferior too much to exalt the superior. They were explicit and precise declarations relating to the particulars of the most momentous measures then in agitation. In speaking of the reformation of the army he repeated his assurance to Sunderland, "that the King may have every thing done here which he has a mind to, and it is more easy to do things quietly than in a storm." ^b He descended to declare even to Tyrconnel himself, that "it was not material how many Roman Catholics were in the army, if the King would have it so; for whatever his Majesty would have should be made easy as far as lay in me." ^c

In the mean time Clarendon had incurred the displeasure of the Queen by his supposed civilities to Lady Dorchester during her residence in Ireland. ^d The King was also displeased at the disposition which he imputed to the Lord Lieutenant rather to traverse than to forward the designs of Tyrconnel in favour of the Catholics. ^e It was in vain that the submissive viceroy attempted to disarm these resentments by abject declarations of deep regret and unbounded devotedness. ^f The daily decline of the credit of Rochester deprived his brother of his best support; and Tyrconnel, who returned to court in August, 1686, found it easy to effect a

^a Clar. 8th June, 1686.

^b Clar. 20th July, 1686.

^d Id.

^c Id, 30th July, 1686.

^e Id. 6th October, 1686.

^f Clar. to the King, 6th October; to Lord Rochester, 23d October, 1686.

change in the government of Ireland. But he found more difficulty in obtaining that important government for himself. Sunderland tried every means but the resignation of his own office to avert so impolitic an appointment. He urged the declaration of the King, on the removal of Ormond, that he would not bestow the lieutenancy on a native Irishman. He represented the danger of alarming all Protestants, by appointing to that office an acknowledged enemy of the Act of Settlement, and exciting the apprehensions of all Englishmen, by intrusting Ireland to a man so devoted to the service of Louis XIV. He offered to make Tyrconnel a Major General on the English staff, with a pension of 5000*l.* a year, and with as absolute though secret authority in the affairs of Ireland as Lauderdale had possessed in those of Scotland. He promised that after the abrogation of the penal laws in England, Tyrconnel, if he pleased, might be appointed Lord Lieutenant in the room of Lord Powis, who was destined for the present to succeed Clarendon. Tyrconnel turned a deaf ear to these proposals, and threatened to make disclosures to the King and Queen which might overthrow the policy and power of Sunderland. That nobleman, when he was led by his contest with Rochester to throw himself into the arms of the Roman Catholics, had formed a more particular connexion with Jermyn and Talbot, as the King's favourites, and as the enemies of the family of Hyde. Tyrconnel now threatened to disclose the terms and objects of that league, the real purpose of removing Lady Dorchester, and the declaration of Sunderland, when this alliance was formed, that the King could only be governed by a woman or a priest, and that they must therefore combine the influence of the Queen with that of Father Petre.

Sunderland appears to have made some resistance after this formidable threat; and Tyrconnel proposed that the young Duke of Berwick should marry his daughter, and be created Lord Lieutenant, while Tyrconnel himself should enjoy the power under the more modest title of Lord Deputy.^a A council, consisting of Sunderland, Tyrconnel, and the Catholic ministers, was held on the affairs of Ireland in the month of October. The members who gave their opinions before Tyrconnel maintained the neces-

^a London Gazette, 2225. All these particulars are to be found in Sheridan's MSS. Sheridan accompanied Tyrconnel, as secretary, to Ireland. It is but justice to add that, in a few months, they became violent enemies.

sity of conforming to the Act of Settlement ; but Tyrconnel exclaimed against them for advising the King to an act of injustice ruinous to the interests of religion. The conscience of James was alarmed, and he appointed the next day to hear the reasons of state which Sunderland had to urge on the opposite side. Tyrconnel renewed his vehement invectives against the iniquity and impiety of the counsels which he opposed ; and Sunderland, who began as he often did with useful advice, ended, as usual, with a hesitating and ambiguous submission to his master's pleasure,^a trusting to accident and his own address to prevent or mitigate the execution of violent measures. These proceedings decided the contest for office ; and Tyrconnel received the sword of state as Lord Deputy on the 12th February, 1687.

The King's professions of equality and impartiality in the distribution of office between the two adverse communions were speedily and totally disregarded. The Lord Deputy and the greater part of the privy council, the Lord Chancellor with three fourths of the judges, all the King's counsel but one, almost all the sheriffs, and a majority of corporators and justices, were, in less than a year, Catholics ; numbers so disproportioned to the relative property, education, and ability for business, to be found in the two religions, that even if the appointments had not been tainted with the inextinguishable blame of defiance to the laws, they must still have been regarded by the Protestants with the utmost apprehension, as indications of sinister designs. Fitten, the Chancellor, was promoted from the King's Bench prison, where he had been long a prisoner for debt ; and he was charged, though probably without reason, by his opponents, with forgery, said to have been committed in a long suit with Lord Macclesfield. His real faults were ignorance and subserviency. Neither of these vices could be imputed to Sir Richard Nagle, the Catholic Attorney General, who seems chargeable only with the inevitable fault of being actuated by a dangerous zeal for his own suffering party. It does not appear that the Catholic judges actually abused their power. We have already seen that, instead of seeking to retaliate for the murders of the Popish plot, they discountenanced prosecutions against their adversaries with a moderation and forbearance very rarely to be discovered in the policy of parties in

^a Mons. D'Adda MSS. Corres. 15th November, 1687.

the first moments of victory over long oppression. It is true that these Catholic judges gave judgment against the charters of towns. But in these judgments they only followed the example of the most eminent of their Protestant brethren in England.^a The evils of insecurity and alarm were those which were chiefly experienced by the Irish Protestants. These mischiefs, very great in themselves, depended so much on the character, temper, and manner of the Lord Deputy, on the triumphant or sometimes threatening conversation of their Catholic neighbours, on the recollection of bloody civil wars, and on the painful consciousness which haunts the possessors of recently confiscated property, that it may be thought unreasonable to require any other or more positive proof of their prevalence. Some visible fruits of the alarm are pointed out. The Protestants, who were the wealthiest traders as well as the most ingenious artisans of the kingdom, began to emigrate. The revenue is said to have declined. The greater part of the Protestant officers of the army, alarmed by the removal of their brethren, sold their commissions for inadequate prices, and obtained military appointments in Holland, then the home of the exile and the refuge of the oppressed.^b But that which Tyrconnel most pursued, and the Protestants most dreaded, was the repeal of the Act of Settlement. The new proprietors were not, indeed, aware how much cause there was for their alarm. Tyrconnel boasted that he had secured the support of the Queen by the present of a pearl necklace worth 10,000*l.*, which Prince Rupert had bequeathed to his mistress. In all extensive transfers of property not governed by rules of law, where both parties to a corrupt transaction have a great interest in concealment, and where there can seldom be any effective responsibility either judicial or moral, the suspicion of bribery must be incurred, and the temptation itself must often prevail. Tyrconnel asked She-

^a Our accounts of Tyrconnel's Irish administration before the Revolution are peculiarly imperfect and suspicious. King, afterwards Archbishop of Dublin, whose "State of the Protestants" has been usually quoted as authority, was the most zealous of Irish Protestants, and his ingenious antagonist, Lesly, was the most inflexible of Jacobites. Though both were men of great abilities, their attention was so much occupied in personalities and in the discussion of controverted opinions, that they have done little to elucidate matters of fact. Clarendon and Sheridan's MSS. agree so exactly in their picture of Tyrconnel, and have such an air of truth in their accounts of him that it is not easy to refuse them credit, though they were both his enemies.

^b "The Earl of Donegal," says Sheridan, "sold for 600 guineas a troop of horse which, two years before, cost him 1800 guineas." Sheridan MSS.

ridan, his secretary, whether he did not think the Irish would give 50,000*l.* for the repeal of the Act of Settlement. "Certainly," said Sheridan, "since the new interest paid three times that sum to the Duke of Ormond for passing it." Tyrconnel then authorised Sheridan to offer to Lord Sunderland 50,000*l.* in money, or 5000*l.* a year in land for the repeal. Sunderland preferred the 50,000*l.*; but with what seriousness of purpose cannot be ascertained, for the repeal was not adopted, and the money was never paid;^a and Sunderland seems to have continued to thwart and traverse a measure which he did not dare openly to resist. The absolute abrogation of laws under which so much property was held, seemed to be beset with such difficulty, that in the autumn of the following year Tyrconnel, on his visit to England, proposed a more modified measure, which aimed only at affording a partial relief to the ancient proprietors. In the temper which then prevailed, a partial measure produced almost as much alarm as one more comprehensive, and was thought to be intended to pave the way for total resumption. The danger consisted in enquiry; the object of apprehension was any proceeding which brought this species of legal possession into question. The proprietors dreaded the approach of discussion to their invidious and originally iniquitous titles. It would be hard to expect that James should abstain from relieving his friends lest he might disturb the secure enjoyment of his enemies. Motives of policy, however, and some apprehensions of too sudden a shock to the feelings of Protestants in Great Britain, retarded the final adoption of this measure. It could only be carried into effect by the parliament of Ireland; and it was not thought wise to call a Parliament till every part of the internal policy of the kingdom which could influence the elections of that assembly should be completed. Probably, however, the delay principally arose from daring projects of separation and independence, which were entertained by Tyrconnel, and of which a short statement (in its most important parts hitherto unknown to the public) will conclude the account of his administration.

In the year 1666, towards the close of the first Dutch war, Louis XIV. made preparations for invading Ireland with an army of 20,000 men, under the Duc de Beaufort, assured by the Irish ecclesiastics, that he would be joined by the Catholics, then more

^a Sheridan MSS.

than usually incensed by the confirmation of the Act of Settlement, and by the English statutes against the importation of the produce of Ireland. To this plot, which was discovered by the Queen-mother at Paris, and by her disclosed to Charles II., it is not probable that so active a leader as Tyrconnel could have been a stranger.^a We are informed by his secretary,^b that, during his visits to England in 1686, he made no scruple to avow projects of the like nature, when, after some remarks on the King's declining age, and on the improbability that the Queen's children, if ever she had any, should live beyond infancy, he declared, "that the Irish would be fools or madmen if they submitted to be governed by the Prince of Orange, or by Hyde's grand-daughters; that they ought rather to take that opportunity of resolving no longer to be the slaves of England, but to set up a king of their own under the protection of France, which he was sure would be readily granted, and he added that nothing could be more advantageous to Ireland or ruinous to England." His reliance on French support was probably founded on the general policy of Louis XIV.; on his conduct towards Ireland in 1666, and, perhaps, on information from Catholic ecclesiastics in France: but he was not long content with these grounds of assurance. During his residence in England in the autumn of 1687, he had recourse to decisive and audacious measures for ascertaining how far he might rely on foreign aid in the execution of his ambitious schemes. A friend of his at court (whose name is concealed, but who probably was either Henry Jermyn or Father Petre) applied on his behalf to M. Bonrepaux, a confidential agent then employed by the court of Versailles in London, on a special mission,^c expressing his desire, in case of the death of James II., to take measures to prevent Ireland from falling under the domination of the Prince of Orange, and to place that country under the protection of the most Christian King. Tyrconnel expressed his

^a There are obscure intimations of this intended invasion in Carte's Ormond, ii. 328. The resolutions of the parliament of Ireland concerning it are to be found in the Gazette, 25th—28th December, 1665. Louis XIV. himself tells us, that he had a correspondence with those whom he calls the remains of Cromwell in England, and "with the Irish Catholics, who, always discontented with their condition, seem ever ready to join any enterprise which may render it more supportable." *Œuvres de Louis XIV.*, ii. 203. Sheridan's MS. contains more particulars. It is supported by the printed authorities as far as they go; and being written at St. Germain, probably differed little in matters of fact from the received statements of the Jacobite exiles.

^b Sheridan MSS.

^c Bonrepaux à Seignelai, 4th September, 1686. Fox MSS. ii. Supplement.

desire that Bonrepaux should go to Chester for the sake of a full discussion of this important proposition. But that wary minister declined a step which would have amounted to the opening of a negociation, until he had authority from his government. He promised to keep the secret, especially from Barillon, who it was feared would betray it to Sunderland, then avowedly distrusted by the lord deputy. The minister, in communicating this proposition to his court, adds, that he very certainly knew the King of England's intention to be to deprive his presumptive heir of Ireland, to make that country an asylum for all his Catholic subjects, and to complete his measures on that subject in the course of five years; a time which Tyrconnel thought much [too long, and earnestly besought the King to abridge. Bonrepaux also observes, that the Prince of Orange certainly apprehended such designs; and James told the nuncio that one of the objects of the extraordinary mission of Dykvelt was the affair of Ireland, happily begun by Tyrconnel;^a as the same prelate was afterwards informed by Sunderland, that Dykvelt expressed a fear of general designs against the succession of the Prince and Princess of Orange.^b Bonrepaux was speedily instructed to inform Tyrconnel that if on the death of James he could maintain himself in Ireland, he might rely on effectual aid from Louis to preserve the Catholic religion, and to separate that country from England, when under the dominion of a Protestant sovereign.^c Tyrconnel is said to have agreed, without the knowledge of his own master, to put four Irish sea-ports, Kinsale, Waterford, Limerick, and either Galway or Coleraine, into the hands of France.^d The remaining particulars of this bold and hazardous negociation were reserved by Bonrepaux till his return to Paris; but he closes his last despatch with the singular intimation that several Scotch lords had sounded him on the succour they might expect from France, on the death of James, to exclude the Prince and Princess of Orange from the throne of Scotland: objects so far beyond the usual aim of ambition, and means so much at variance with prudence as well as duty, could hardly have presented themselves to any mind whose native violence had not been inflamed by an education in the school of conspiracy and insurrection; nor even to such but in a country which, from the division of its inhabitants, and the

^a Lettere de Mons. D'Adda, 7th Febbraio, 1687.
Seignelai à Bonrepaux, 29th September, 1687.

^b Id. 20th June, 1687.
^d Sheridan MSS.

impolicy of its administration, had constantly stood on the brink of the most violent revolutions ; where quiet seldom subsisted long but as the bitter fruit of terrible examples of cruelty and rapine, and where the majority of the people easily listened to offers of foreign aid against a government which they considered as the most hostile of foreigners.

CHAPTER V.

Rupture with the Protestant Tories.—Increased Decision of the King's Designs.—Encroachments on the Church Establishment.—Charter House.—Oxford University College.—Christ Church.—Exeter College, Cambridge.—Magdalen College, Oxon.—Declaration of Liberty of Conscience.—Similar Attempts of Charles.—Proclamation at Edinburgh.—Resistance of the Church.

IN the beginning of the year 1687, the rupture of James with the powerful party who were ready to sacrifice all but the Church to his pleasure appeared to be irreparable. He had apparently destined Scotland to set the example of unbounded submission, under the forms of the constitution ; and he undoubtedly hoped that the revolution in Ireland would supply him with the means of securing the obedience of his English subjects by intimidation or force. The failure of his project in the most Protestant part of his dominions, and its alarming success in the most Catholic, alike tended to widen the breach between parties in England. The Tories were more alienated from the crown by the example of their friends in Scotland, as well as by their dread of the Irish. An unreserved compliance with the King's designs became notoriously the condition by which office was to be obtained or preserved ; and, except a very few instances of personal friendship, the public profession of the Catholic faith was required as the only security for that compliance. The royal confidence and the direction of public affairs were transferred from the Protestant Tories, in spite of their services and sufferings during half a century, into the hands of a faction, who, as their title to power was zeal for the advancement of Popery, must be called Papists, though some of them

professed the Protestant religion, and though their maxims of policy, both in church and state, were dreaded and resisted by the most considerable of the English Catholics.

It is hard to determine, perhaps it might have been impossible for James himself to say, how far his designs for the advancement of the Roman Catholic church extended at the period of his accession to the throne. It is agreeable to the nature of such projects that he should not, at first, dare to avow to himself any intention beyond that of obtaining relief for his religion, and placing it in a condition of safety and honour; but it is altogether improbable that he had even then steadily fixed on a secure toleration as the utmost limit of his endeavours. His schemes were probably vague and fluctuating, assuming a greater distinctness with respect to the removal of grievous penalties and disabilities, but always ready to seek as much advantage for his church as the progress of circumstances should render attainable: sometimes drawn back to toleration by prudence or fear, on other occasions impelled to more daring counsels by the pride of success, or by anger at resistance. In this state of fluctuation it is not altogether irreconcilable with the irregularities of human nature, that he might have sometimes yielded a faint and transient assent to those principles of religious liberty which he professed in his public acts, though even this superficial sincerity is hard to be reconciled with his share in the secret treaty of 1670; with his administration of Scotland, where he carried his passion for intolerance so far as to be the leader of one sect of heretics in the bloody persecution of another; and with his language to Barillon, to whom, at the very moment of his professed toleration, he declared his approbation of the cruelties of Louis XIV. against his own Protestant subjects.^a It would be extravagant to expect that the liberal maxims which adorned his public declarations had taken such a hold on his mind as should withhold him from endeavouring to establish his own religion as soon as his sanguine zeal should lead him to think it practicable, or that he should not in process of time go on to guard it by that code of disabilities and penalties which was then enforced by every state in Europe except Holland,

^a "J'ai dit au Roi que V. M. n'avoit plus au cœur que de voir prospérer les soins qu'il prend ici pour y établir la religion Catholique. S. M. B. me dit en me quittant: 'Vous voyez que je n'omets rien de ce qui est en mon pouvoir. J'espère que le Roi votre maître m'aidera, et que *nous ferons* de concert des grandes choses pour la religion.' " Barillon, 2d (12th) May, 1687. 1 Fox MSS. 183.

and deemed an indispensable security for their religion by every Christian community, except the obnoxious sects of the Socinians, Independents, Anabaptists, and Quakers. Whether he meditated a violent change of the established religion from the beginning, or only entered on a course of measures which must terminate in its subversion, is rather a philosophical than a political question. In both cases, apprehension and resistance were alike reasonable; and in neither could an appeal to arms be warranted until every other means of self-defence had proved manifestly hopeless.

Whatever opinions may be formed of his intentions at an earlier period, it is evident that in the year 1687 his resolution was taken; though still no doubt influenced by the misgivings and fluctuations incident to vast and perilous projects, especially when they are entertained by those whose character is not so daring as their designs. All the measures of his internal government, during the eighteen months which ensued, were directed to the overthrow of the Established Church, an object which was to be attained by assuming a power above law, and could only be preserved by a force sufficient to bid defiance to the repugnance of the nation. An absolute monarchy, if not the first instrument of his purpose, must have been the last result of that series of victories over the people which the success of his design required. Such, indeed, were his conscientious opinions of the constitution, that he thought the Habeas Corpus Act inconsistent with it; and so strong was his conviction of the necessity of military force to his designs at that time, that in his dying advice to his son, written long afterwards, in secrecy and solitude, after a review of his own government, his injunction to the Prince is, "Keep up a considerable body of Catholic troops, without which you cannot be safe."^a The liberty of the people, and even the civil constitution, were as much the objects of hostility as the religion of the great majority, and their best security against ultimate persecution.

The measures of the King's domestic policy, indeed, consisted rather in encroachments on the Church than in measures of relief to the Catholics. He, in May, 1686, granted dispensations to the curate of Putney, a convert to the Church of Rome, enabling him to hold his benefices, and relieving him from the performance of

^a Life of James II., ii. 621.

all the acts inconsistent with his new religion, which a long series of statutes had required clergymen of the Church of England to perform.^a By following this precedent, the King might have silently transferred to ecclesiastics of his own communion many benefices in every diocese of which the Bishop had not the courage to resist the dispensing power. The converted incumbents would preserve their livings under the protection of that prerogative, and Catholic priests might be presented to benefices without any new ordination; for the Church of England, although she treats the ministers of any other Protestant communion as being only in pretended holy orders, recognises the ordination of the Church of Rome, which she sometimes calls idolatrous, in order to maintain, even through idolatrous predecessors, that unbroken connexion with the apostles which she deems essential to the power of conferring the sacerdotal character. This obscure encroachment, however, escaped general observation. The first attack on the laws to which resistance was made was a royal recommendation of Andrew Popham, a Catholic, to the Governors of the Charter House (a hospital school, founded by a merchant of London, named Sutton, on the site of a Carthusian monastery), to be received by him as a pensioner on their opulent establishment, without taking the oaths required both by the general laws and by a statute^b passed for the government of that foundation.^c Among the governors were persons of the highest distinction in church and state. The Chancellor, at their first meeting, intimated the necessity of immediate compliance with the King's mandate. Thomas Bennet, Master of the Charter House, a man justly celebrated for genius, eloquence, and learning, had the courage to maintain the authority of the laws against an opponent so formidable. He was supported by the aged Duke of Ormond, and Jeffreys's motion was negatived. A second letter to the same

^a Dispensation to Edward Sclater, rector of Esher and curate of Putney, dispensing with sixteen acts of parliament, from 21 Hen. VIII. to 17 Charles II., 3d May, 1686.—Gutch, *Collectanea Curiosa*, i. 290. and Reresby, 233. Lysons's *Environs of London*, i. 410. Sclater publicly recanted the Romish religion on the 5th of May, 1689, a pretty rapid retreat. Account of Edward Sclater's return to the Church of England, by Dr. Horneck. London, 1689. It is remarkable that Sancroft so far exercised his archiepiscopal jurisdiction as to authorise Sclater's admission to the Protestant communion on condition of public recantation, at which Burnet preached: yet the pious Horneck owns that the juncture of time tempted him to smile.

^b 3 Charles I. (Private Act.)

^c 20th December, 1686. Relation of the Proceedings at the Charter House, p. 3. London, 1689. folio. Carte's Ormond, ii. 246.

effect was addressed to the Governors, which they persevered in resisting; assigning their reasons in a letter^a to one of the secretaries of state, which was subscribed by the Archbishop of Canterbury, the Bishop of London, Ormond, Halifax, Nottingham and Danby. This courageous resistance by a single clergyman, countenanced by such weighty names, induced the court to pause till experiments were tried in other places, where politicians so important could not directly interfere. The attack on the Charter House was suspended and never afterwards resumed. To Bennet, who thus threw himself alone into the breach, much of the merit of the stand which followed justly belongs: he was requited like other public benefactors; his friends forgot the service, and his enemies were excited by the remembrance of it to defeat his promotion, on the pretext of his free exercise of reason in the interpretation of the Scriptures, which the established clergy zealously maintained in vindication of their own separation from the Roman Church, but treated with little tenderness in those who dissented from their own creed.

Measures of a bolder nature were resorted to on a more conspicuous stage. The two great universities of Oxford and Cambridge, the most opulent and splendid literary institutions of Europe, were from their foundation under the government of the clergy, the only body of men who then possessed sufficient learning to conduct education. Their constitution was not much altered at the Reformation: the same reverence which spared their monastic regulations happily preserved their rich endowments from rapine; and though many of their members suffered at the close of the civil war from their adherence to the vanquished party, the corporate property was undisturbed, and their studies flourished both under the Commonwealth and the Protectorate.

Their fame as seats of learning, their station as the ecclesiastical capitals of the kingdom, and their ascendant over the susceptible minds of all youth of family and fortune, now rendered them the chief scenes of the decisive contest between James and the established church. Obadiah Walker, Master of University College in Oxford, a man of no small note for ability and learning, and long a concealed Catholic, now obtained for himself, and two of his fellows, a dispensation from all those acts of participation in the

^a 25th June, 1687.

Protestant worship which the laws since the Reformation required from them,^a together with a license for the publication of books of Catholic theology. He established a printing press, and a Catholic chapel in his college, which was henceforth regarded as having fallen into the hands of the Catholics. Both these exertions of the prerogative had preceded the determination of the judges, which was supposed by the King to establish its legality. Animated by that determination, he (contrary to the advice of Sunderland, who thought it safer to choose a well affected Protestant) proceeded to appoint one Massey, a Catholic, who appears to have been a layman, to the high station of Dean of Christ Church at Oxford, by which he became a dignitary of the Church of England, as well as the ruler of the greatest college in the university. A dispensation and pardon had been granted to him on the 16th of December, 1686, dispensing with the numerous statutes which stood in the way of his promotion, one of which was the act of uniformity, the only foundation of the legal establishment^b of the Church. His refusal of the oath of supremacy was recorded; but he was, notwithstanding, installed in the deanery without resistance or even remonstrance, by Aldrich, the sub-dean, an eminent divine of the high church party, who, on the part of the College, accepted the dispensation as a substitute for the oaths required by law. Massey appears to have attended the chapter officially on several occasions, and to have presided at the election of a Bishop of Oxford near two years afterwards.

Thus did that celebrated society, overawed by power, or still misled by their extravagant principle of unlimited obedience, or, perhaps, not yet aware of the extent of the King's designs, recognise the legality of his usurped power by the surrender of an academical office of ecclesiastical dignity into hands which the laws had disabled from holding it. It was no wonder, that the unprecedented vacancy of the archbishopric of York for two years and a half was generally imputed to the King's intending it for Father Petre; a supposition countenanced by his frequent application to Rome to obtain a bishopric and a cardinal's hat for that Jesuit;^c for if he had been a Catholic bishop, and if the chapter

^a In May, 1686. Gutch's Collect. Curios. i. 287. Wood's Athenæ Oxon. iv. 438. ed. 1820. Dod's Church History, iii. 454.

^b Letters of Henry Earl of Clarendon, ii. 278. Gutch's Coll. Cur. ii. 294. The dispensation to Massey contained an ostentatious enumeration of the laws which it sets at defiance.

^c Dod's Ch. Hist. iii. 511. D'Adda's MSS. Corresp. 1687.

of York were as submissive as that of Christ Church, the royal dispensation would have seated him on the archiepiscopal throne. The Jesuits were bound by a vow^a not to accept bishoprics unless compelled by a precept from the Pope, so that his interference was necessary to open the gates of the English church to Petre.

An attempt was made on specious grounds to take possession of another college at Oxford, by a suit before the ecclesiastical commissioners, in which private individuals were the apparent parties. The noble family of Petre (of whom Father Edward Petre was one), in January, 1687, claimed the right of nomination to seven fellowships in Exeter College, which had been founded there by Sir W. Petre, in the reign of Elizabeth. It was acknowledged on the part of the college, that Sir William and his son had exercised that power, though the latter, as they contended, had nominated only by sufferance. The Bishop of Exeter, the visitor of the college, had, in the reign of James I., pronounced an opinion against the founder's descendants, and a judgment had been obtained against them in the Court of Common Pleas about the same time. Under the sanction of these authorities, the college had for seventy years nominated to these fellowships without disturbance from the family of Petre. Allibone, the Catholic lawyer, contended, that this long usage, which would otherwise have been conclusive, deserved little consideration in a period of such iniquity towards Catholics that they were deterred from asserting their civil rights. Lord Chief Justice Herbert observed, that the question turned upon the agreement between Sir William Petre and Exeter College, under which that body received the fellows on his foundation. Jeffreys, perhaps, fearful of violent measures at so early a stage, and taking advantage of the non-appearance of the Crown as an ostensible party, declared his concurrence with the Chief Justice, and the court determined that the suit was a civil case, dependent on the interpretation of a contract, and therefore not within their jurisdiction as commissioners of ecclesiastical causes. Sprat afterwards took some merit to himself for having contributed to save Exeter College from the hands of the enemy. But the concurrence of the Chan-

^a Imposed by Ignatius, at the suggestion of Claude Le Jay, an original member of the order, who wished to avoid a bishopric, probably from humility, but the regulation afterwards prevented the Jesuits from looking for advancement anywhere but to Rome.

cellor and Chief Justice, and the technical ground of the determination, render the vigour and value of his resistance very doubtful.^a

The honour of opposing the illegal power of the Crown devolved on Cambridge, second to Oxford in rank and magnificence, but then more distinguished by zeal for liberty: a distinction probably originating from the long residence of Charles I. at Oxford, and from the prevalence of the parliamentary party at the same period, in the country around Cambridge. The experiment was made there on the whole university, but it was of a cautious and timid nature, and related to a case important in nothing but the principle which it would have established. Early in February, 1687, the King recommended Alban Francis, a Benedictine monk (said to have been a missionary employed to convert the young scholars to the Church of Rome, on whom an academical honour could hardly have been conferred without some appearance of countenancing his mission), to be admitted a master of arts; which was a common act of kingly authority; and granted him a dispensation from the oaths appointed by law to be taken on such an admission.^b Peachell, the vice-chancellor, declared, that he could not tell what to do; to decline his Majesty's letter or his laws. Men of more wisdom and courage persuaded him to choose the better part. He refused the degree without the legal condition.^c On the complaint of Francis, he was summoned before the ecclesiastical commissioners to answer for his disobedience. He was vigorously supported by the university, who appointed deputies to attend him to the bar of the hostile tribunal, and after several hearings he was deprived of his vice-chancellorship, and suspended from his office of master of Magdalen College. Among the deputies at the bar, and probably undistinguished from the rest by the ignorant and arrogant Chancellor, who looked down upon them all with the like scorn, stood Isaac Newton, Professor of Mathematics in the university, then employed in the publication of a work which will perish only with the world, but who showed

^a Sprat's Letter to Lord Dorset, p. 12. This case is now published from the Records of Exeter College, for the first time, through the kind permission of Dr. Jones, the present rector of that society.

^b State Trials, xi. 1350. N. Luttrell, April and May, 1687.

^c Pepys' Diary, ii. Corresp. 79. He consistently pursued the doctrine of passive obedience. "If," says he, "his M., in his wisdom, and according to his supreme power, contrive others method to satisfy himself, *I shall be no murmurer or complainer*, but can be no abettor." Ibid. 81.

on that as on every other fit opportunity in his life, that the most sublime contemplations and the most glorious discoveries could not withdraw him from the defence of the liberties of his country.

But the attack on Oxford, which immediately ensued, was the most memorable of all. The presidency of Magdalen College, one of the most richly endowed communities of the English universities, had lately become vacant by the death of the president, in the end of March, 1687.^a It appears to have given occasion to immediate attempts to obtain from the King a nomination to that desirable office. Smith, one of the fellows, paid his court, with this view, to Parker, the treacherous Bishop of Oxford,^b who, after having sounded his friends at court, warned him "that the King expected the person to be recommended should be favourable to his religion." Smith answered by general expressions of loyalty, which Parker assured him "would not do." A few days afterwards,^c Sancroft anxiously asked Smith who was to be the president; to which he answered, "Not I; I never will comply with the conditions." Some rumours of the projects of James probably induced the fellows of Magdalen College, on the 31st of March, to appoint the meeting for the election for the 13th of April. On the 5th of April, the King issued his letter mandatory, commanding them to make choice of Antony Farmer, not a member of the college, and a recent convert to the Church of Rome, "any statute or custom to the contrary notwithstanding." On the 9th, the fellows agreed to a petition to the King, which was delivered the next day to Lord Sunderland, to be laid before his Majesty, in which they alleged that Farmer was legally incapable of the office, and prayed either that they might be left to make a free election, or that the King would recommend some person fit to be preferred. On the 11th, the mandate arrived, and on the 13th the election was postponed to the 15th, the last day on which it could by the statutes be made, to allow time for receiving an answer to the petition. On that day they were informed that the King "expected to be obeyed." A small number of senior fellows proposed a second petition, but the larger and younger part rejected the proposal with indignation, and proceeded to the election of Mr. Hough, after a discussion more

^a State Trials, xii. 1. Wilmot's Life of Hough, particularly the Journal of Dr. Smith, a fellow who submitted to the royal command; in Howell's edition of the State Trials.

^b 26th and 29th March, 1687.

^c 5th April, 1687.

agreeable to the natural feelings of injured men than to the principles of passive obedience recently promulgated by the university.^a The fellows were summoned, in June, before the Ecclesiastical Commission, to answer for their contempt of his Majesty's commands. On their appearance, Fairfax, one of their body, having desired to know the commission by which the court sat, Jeffreys said to him, "What commission have you to be so impudent in court. This man ought to be kept in a dark room."^b Why do you suffer him without a guardian?"^a On the 22d of that month, Hough's election was pronounced to be void, and the vice-president, with two of the fellows, were suspended. But proofs of such notorious and vulgar profligacy had been produced against Farmer that it was thought necessary to withdraw him in August. The fellows were directed by a new mandate to admit Parker, bishop of Oxford, to the presidency.

This man was as much disabled by the statutes of the college as Farmer; but as servility and treachery, though immoralities often of a deeper dye than debauchery, are neither so capable of proof nor so easily stripped of their disguises, the fellows were by this recommendation driven to the necessity of denying the dispensing power. Their inducements, however, to resist him, were strengthened by the impossibility of representing them to the King. Parker, originally a fanatical puritan, became a bigoted churchman at the Restoration, and disgraced abilities not inconsiderable by the zeal with which he defended the persecution of his late brethren, and by the unbridled ribaldry with which he reviled the most virtuous men among them. His labours for the Church of England were no sooner rewarded by the bishopric of Oxford, than he transferred his services, if not his faith, to the Church of Rome, which then began to be openly patronised by the Court, and seems to have retained his station in the Protestant hierarchy in order to contribute more effectually to its destruction. The zeal of those who are more anxious to recommend themselves than to promote their cause is often too eager, and the convivial enjoyments of Parker

^a "Hot debates arose about the King's letter, and horrible rude reflections were made upon his authority, that he had nothing to do in our affair, *and things of a far worse nature and consequence*. I told one of them that the spirit of Fergusson had got into him." T. Smith's Diary. Howell's State Trials, xii. 58.

^b In N. Luttrell's Diary, Jeffreys is made to say of Fairfax, "He is fitter to be in a madhouse."

often betrayed him into very imprudent and unseemly language.^a Against such an intruder the members of Magdalen College had the most powerful motives to make a vigorous resistance. They were summoned into the presence of the King when he arrived at Oxford in September, and was received by the body of the university with such demonstrations of loyalty as to be boasted of in the Gazette.^b "The King chid them very much for their disobedience," says one of his attendants, "and with a much greater appearance of anger than ever I perceived in his Majesty, who bade them go away and choose the Bishop of Oxford, or else they should certainly feel the weight of their sovereign's displeasure."^c They answered respectfully, but persevered. They received private warnings, that it was better to acquiesce in a head of suspected religion, such as the Bishop, than expose themselves to be destroyed by the subservient judges, in proceedings of *quo warranto*, for which the inevitable breaches of their innumerable statutes would supply a fairer pretext than was sufficient in the other corporations, or subject themselves to innovations in their religious worship, which might be imposed by the King in virtue of his undefined supremacy over the Church.^d These insinuations proving vain, the King issued a commission to Cartwright, Bishop of Chester, Chief Justice Wright, and Baron Jenner, to examine the state of Magdalen College, with full power to alter the statutes and frame new ones, in execution of the authority which he claimed as supreme visitor of cathedrals and colleges, which was held to supersede the powers of their ordinary visitors. The commissioners accordingly arrived at Oxford on the 20th of October, for the purpose of this royal visitation; and the object of it was opened by Cartwright, in a speech full of anger and menace. Hough maintained his own rights and those of his college with equal decorum and firmness. On being asked whether he submitted to the visitation, he answered, "We submit to it as far as it is consistent with the laws of the land and the statutes of the college, but no farther. There neither is nor can be a president as long as I live and obey

^a Athenæ Oxon. ii. 814. It appears that he refused on his death-bed to declare himself a Catholic, which Evelyn justly thinks strange. Evelyn, i. 605.

^b London Gaz. September 5—8, 1687.

^c Pepys' Diary, &c. ii. Appendix, 86. Letter of Blathwaite, Secretary of War, to Pepys, Oxford, 5th September, 1687.

^d Howell, State Trials, xii. 19, &c.

the statutes." The court cited five cases of nomination to the presidency by the Crown since the Reformation, of which he appears to have disputed only one. But he was unshaken: he refused to give up possession of his house to Parker; and when, on the second day, they deprived him of the presidency, and struck his name off the books, he came into the hall, and protested "against all they had done in prejudice of his right, as illegal, unjust, and null." The strangers and young scholars loudly applauded his courage, which so incensed the court, that the Chief Justice bound him to appear in the King's Bench in a thousand pounds. Parker having been put into possession by force, a majority of the fellows were prevailed on to submit, "as far as was lawful and agreeable to the statutes of the college." The appearance of compromise to which every man feared that his companion might be tempted to yield, shook their firmness for a moment. Fortunately the imprudence of the King set them again at liberty. The answer with which the commissioners were willing to be content did not satisfy him. He required a written submission, in which the fellows should acknowledge their disobedience, and express their sorrow for it. On this proposition they withdrew their former submission, and gave in a writing, in which they finally declared, "that they could not acknowledge themselves to have done any thing amiss." The Bishop of Chester, on the 16th of November, pronounced the judgment of the court; by which, on their refusal to subscribe a humble acknowledgment of their errors, they were deprived and expelled from their fellowships. Cartwright, like Parker, had originally been a puritan, and was made a churchman by the Restoration. He ran the same race, though with less vigorous powers. He was made Bishop of Chester for a sermon, in which he had inculcated the doctrine, that the promises of kings were not binding;^a within a few months after these services at Oxford, he was rebuked by the King, for saying in his cups that Jeffreys and Sunderland would deceive him.^b He was suspected of more opprobrious vices. But the merit of being useful in an odious project was sufficient to cancel all private guilt. A design was at that time entertained of promoting him to the see of London, as soon as the deprivation of Compton,

^a Sermon at Ripon, 6th February, 1686. "The King hath, indeed, promised to govern by law; but the safety of the people (of which he is judge) is an exception implied in every monarchical promise." See also his sermon on the 30th January, 1682, at Holyrood House, before the Lady Anne.

^b Narcissus Luttrell, February, 1688.

which was in contemplation, should be carried into execution.^a Early in December, the fellows of Magdalen were incapacitated to hold any benefice or preferment in the church by the ecclesiastical commissioners; a decree, however, which passed that body only by a majority of one; the minority consisting of Lord Mulgrave, Lord Chief Justice Herbert, Baron Jenner, and Sprat, Bishop of Rochester, who boasts, that he laboured to make the commission, which he countenanced by his presence, as little mischievous as he could.^b

This rigorous measure was probably adopted from the knowledge; that many of the nobility and gentry intended to bestow livings in the church on many of the ejected fellows.^c The King told Sir Edward Seymour, that he had heard that he and others intended to take some of the fellows into their houses, and added, that he should look on it as a combination against him.^d But in spite of these threats considerable collections were made for them; and when the particulars of the transaction were made known in Holland, the Princess of Orange contributed two hundred pounds to their relief.^e It was probably by some part of them, that a person so prudent as well as mild, was so transported beyond her usual meekness as to say to D'Albyville, James's minister at the Hague, that if she ever became queen, she would signalise her zeal for the church more than Elizabeth.^f The King represented to Barillon the apparently triumphant progress which he made through the south and west of England, in the course of which he gave such unbecoming reproof to the fellows of Magdalen College, as a satisfactory proof of the popularity of his person and government.^g But that experienced statesman, not deceived by these outward shows, began from that moment to see more clearly the dangers which James had to encounter. An attack on the most opulent establishment for education of the kingdom; the expulsion of a body of learned men from their private property without any trial known to the laws, and for no other offence than obstinate

^a Johnston (son of Warriston) to Burnet, 8th December, 1687. Welbeck MSS. Sprat, in his letter to Dorset, speaks of "farther proceedings" as being meditated against Compton.

^b Johnston, *ibid.* He does not name the majority. They, probably, were Jeffreys, Sunderland, the Bishops of Chester and Durham, and Lord Chief Justice Wright.

^c Johnston to Burnet, 17th November, 1687.

^d Johnston to Burnet, 8th Dec. 1687.

^e Smith's Diary in Howell's State Trials, xii. 73.

^f Barillon au Roi, 23d September, 1687. Fox MSS., 202.

^g *Id.* 29th September, 1687. *Ibid.* 203.

adherence to their oaths, and the transfer of their great endowments to the clergy of the King's persuasion, who were legally unable to hold them, even if he had justly acquired the power of bestowing them, were measures of bigotry and rapine, odious and alarming without being terrible, and by which the King lost the attachment of many friends, without inspiring his opponents with much fear. The members of Magdalen College were so much the objects of general sympathy and respect, that though they justly obtained the honours of martyrdom, they experienced little of its sufferings. It is hard to imagine a more unskilful attempt to persecute, than that which thus inflicted sufferings most easily relieved on men who were most generally respected. In corporations so great as the university, the wrongs of every member were quickly felt and resented by the whole body; and the feelings prevalent among them were speedily spread over the kingdom, of which every part received from them preceptors in learning and teachers of religion (a circumstance of peculiar importance at a period when publication still continued to be slow and imperfect). A contest for a corporate right has the advantage of seeming more generous than that for individual interest, and corporate spirit itself is one of the most steady and inflexible principles of human action. An invasion on the legal possessions of the universities was an attack on the strong holds as well as palaces of the Church, and where she was guarded by the magnificence of art, and the dignity and antiquity of learning, as well as by respect for religion. It was made on principles which tended directly to subject the whole property of the Church to the pleasure of the Crown; and as soon as, in a conspicuous and extensive instance, the sacredness of legal possession is intentionally violated, the security of all property is endangered. Whether such proceedings were reconcilable to law, and could be justified by the ordinary authorities and arguments of lawyers, was a question of very subordinate importance.

At an early stage of the proceedings against the universities, the King, not content with releasing individuals from obedience to the law by dispensations in particular cases, resolved on altogether suspending the operation of penal laws relating to religion by one general measure. He accordingly issued, on the 4th of April, 1687^a "A Declaration for Liberty of Conscience;" which,

^a London Gazette, 4th April to 7th April, 1687.

after the statement of those principles of equity and policy on which religious liberty is founded, proceeds to make provisions in their own nature so wise and just that they want nothing but lawful authority and pure intention to render them worthy of admiration. It suspends the execution of all penal laws for nonconformity, and of all laws which require certain acts of conformity, as qualifications for civil or military office : it gives leave to all men to meet and serve God after their manner, publicly and privately, and denounces the royal displeasure and the vengeance of the land against all who should disturb any religious worship ; and finally, “ in order that his loving subjects may be discharged from all penalties, forfeitures, and disabilities, which they may have incurred, grants them a free pardon for all crimes by them committed against the said penal laws.” This declaration, founded on the supposed power of suspending laws, was, in several respects of more extensive operation than the exercise of the power to dispense with them. The laws of disqualification only became penal when the nonconformist was a candidate for office ; and not necessarily implying immorality in the person disqualified, might, according to the doctrine then received, be the proper object of a dispensation. But some acts of nonconformity, which might be committed by all men, and which did not of necessity involve a conscientious dissent, were regarded as in themselves immoral, and to them it was acknowledged that the dispensing power did not extend. Dispensations, however multiplied, are presumed to be grounded on the special circumstances of each case. But every exercise of the power of indefinitely suspending a whole class of laws which must be grounded on general reasons of policy, without any consideration of the circumstances of particular individuals, is evidently a more undisguised assumption of legislative authority. There were practical differences of considerable importance. No dispensation could prevent a legal proceeding from being commenced and carried on as far as the point when it was regular to appeal to the dispensation as a defence. But the declaration which suspended the laws stopped the prosecutor on the threshold ; and in the case of disqualification it seemed to preclude the necessity of all subsequent dispensations to individuals. The dispensing power might remove disabilities, and protect from punishment ; but the exemption from expense, and the security against vexation, were completed only by this exercise of the suspending power.

Acts of a similar nature had been twice attempted by Charles II. The first was in the year of his restoration; in which,^a after many concessions to Dissenters, which might be considered as provisional, and only to be binding till the negociation for a general union in religion should be closed, he adds, "We hereby renew what we promised in our declaration from Breda, that no man should be disquieted for difference of opinion in matters of religion, which do not disturb the peace of the kingdom." On the faith of that promise the English Nonconformists had concurred in the Restoration; yet the Convention Parliament itself, in which the Presbyterians were powerful, if not predominant, refused, though by a small majority, to pass a bill to render this tolerant declaration effectual.^b But the second parliament, elected under the prevalence of a different spirit, broke the public faith by the Act of Uniformity, which prohibited all public worship and religious instruction, except such as were conformable to the Established Church.^c The zeal of that assembly had, indeed, at its opening, been stimulated by Clarendon, the deepest stain on whose administration is the renewal of intolerance.^d Charles, whether most actuated by love of quiet, or by indifference to religion, or by a desire to open the gates to Dissenters, that Catholics might enter, made an attempt to preserve the public faith which he had himself pledged by the exercise of his dispensing power. In the end of 1662,^e he published a declaration, in which he assured peaceable Dissenters, who were only desirous modestly to perform their devotions in their way, that he would make it his special care to incline the wisdom of parliament to concur with him in making some act which, he adds, "may enable us to exercise, with a more universal satisfaction, the dispensing power which we conceive to be inherent in us." In the speech with which he opened the next session, he only ven-

^a Declaration in Ecclesiastical Affairs, 25th October, 1660. Kennett, iii, 242.

^b Commons' Journals, 28th November, 1660. On the second reading the members were, ayes, 157; noes, 183. Sir G. Booth, a teller for the ayes, was a Presbyterian leader.

^c 14 Charles II. c. iv. s. 10—15., passed in May, 1662.

^d Speeches of the Lord Chancellor, 8th May, 1661, and 19th May, 1662. "The Lords Clarendon and Southampton, together with the bishops, were the great opposers of the King's intention to grant toleration to Dissenters, according to the promise at Breda." Life of James II., 391. These, indeed, are not the words of the King; but for more than twelve years on this part of his life the compiler, Mr. Dicconson, does not quote James's MSS.

^e 25th December, 1662. Kennett's Register, 850. The concluding paragraph, relating to Catholics, is a model of that stately ambiguity under which the style of Clarendon gave him peculiar facilities of cloaking an unpopular proposal.

tures to say, "I could heartily wish I had such a power of indulgence."^a The Commons, however, better royalists or more zealous churchmen than the King, resolved that it be represented to his Majesty, as the humble advice of this House, that no indulgence be granted to Dissenters from the Act of Uniformity;^b and an address to that effect was presented to him, which had been drawn up by Sir Heneage Finch, his own solicitor-general. The King, counteracted by his ministers, almost silently acquiesced; and the parliament proceeded, in the years which immediately followed, to enact that series of persecuting laws which disgrace their memory, and dishonour an administration otherwise not without claims on praise. It was not till the beginning of the second Dutch war,^c that "a declaration for indulging Nonconformists in matters ecclesiastical" was advised by Sir Thomas Clifford, for the sake of Catholics,^d and embraced by Shaftesbury for the general interests of religious liberty. A considerable debate on this declaration took place in the House of Commons, in which Waller alone had the boldness and liberality to contend for the toleration of the Catholics; but the principle of freedom of conscience, and the desire to gratify the King, yielded to the dread of prerogative and the enmity to the Church of Rome. An address was presented^e to the King, "to inform him that penal statutes in matters ecclesiastical cannot be suspended but by act of parliament." The King returned an evasive answer; and the House presented another address, declaring "that the King was very much misinformed, no such power having been claimed or recognised by any of his predecessors, and if admitted, might tend to altering the legislature, which had always been acknowledged to be in your Majesty and your two Houses of parliament." In answer to which the King said, "If any scruple

^a King's Speech, 18th February, 1663.

^b Commons' Journals, 25th February, 1663.

^c 15th March, 1672. "We think ourselves obliged to make use of that supreme power in ecclesiastical matters which is inherent in us. We declare our will and pleasure, that the execution of all penal laws in matters ecclesiastical be suspended, and we shall allow a sufficient number of places of worship as they shall be desired, for the use of those who do not conform to the Church of England," without allowing public worship to Roman Catholics.

^d Locke's Letter from a Person of Quality ———, unpublished, though printed. Life of the Earl of Shaftesbury, chiefly from the papers of Mr. Stronger, 247.

Most English historians tell us that Sir Orlando Bridgman refused to put the Great Seal to this declaration, and that Lord Shaftesbury was made Chancellor to seal it. The falsehood of this statement is proved by the mere inspection of the London Gazette, by which we see that the declaration was issued on the 15th of March, when Lord Shaftesbury was not yet appointed.

^e 10th and 14th February, 1673: ayes, 168; noes, 116.

remains concerning the suspension of the penal laws, I hereby faithfully promise that what hath been done in that particular shall not be drawn either into consequence or example." The Chancellor and Mr. Secretary Coventry, by command of the King, acquainted both Houses separately, on the same day, that he had caused the declaration to be cancelled in his presence; on which both Houses immediately voted, and presented in a body, an unanimous address of thanks to his Majesty, "for his gracious, full, and satisfactory answer."^b The whole of this transaction undoubtedly amounted to a solemn and final condemnation of the pretension to a suspending power by the King in parliament: it was in substance not distinguishable from a declaratory law; and the forms of a statute seem to have been dispensed with to avoid the appearance of distrust or discourtesy towards Charles. We can discover, in the very imperfect accounts which are preserved of the debates of 1673, that the advocates of the Crown had laid main stress on the King's ecclesiastical supremacy; it being, as they reasoned, evident that the head of the Church should be left to judge when it was wise to execute or suspend the laws intended for its protection. They relied also on the undisputed right of the Crown to stop the progress of each single prosecution which seemed to justify, by analogy, a more general exertion of the same power. James, in the declaration of indulgence, disdaining any appeals to analogy or to his supremacy, chose to take a wider and higher ground, and concluded the preamble in the tone of a master: — "We have thought fit, by virtue of our royal prerogative, to issue forth this our declaration of indulgence, making no doubt of the concurrence of our two Houses of parliament, when we shall think it convenient for them to meet." His declaration was issued in manifest defiance of the parliamentary condemnation pronounced on that of his brother, and it was introduced in language of more undefined and alarming extent. On the other hand, his measure was countenanced by the determination of the judges, and seemed to be only a more compendious and convenient manner of effecting what these perfidious magistrates had declared he might lawfully do. That iniquitous decision might excuse many of those who were ignorant of the means by which it was obtained; but the King himself, who had removed judges too honest to concur in the judg-

^b Commons' Journals, 8th March, 1673.

ment, and neither continued nor appointed any whose subser-viency he had not first ascertained, could plead no such authority in mitigation. He had dictated the oracle which he affected to obey. It is very observable that he himself, or rather his biogra-pher (for it is not just to impute this base excuse to himself), while he claims the protecting authority of the adjudication, is prudently silent on the unrighteous practices by which that show of authority was purchased.^a

The way had been paved for the English declaration of indul-gence by a proclamation issued at Edinburgh,^b couched in loftier language than had been hazarded in England: — “We, by our sovereign authority, prerogative royal, and absolute power, do hereby give and grant our royal toleration. We allow and tolerate the moderate Presbyterians to meet in their private houses, and to hear such ministers as have been or are willing to accept of our indulgence, but they are not to build meeting-houses, but to exer-cise in houses. We tolerate Quakers to meet in their form in any place or places appointed for their worship: and we, by our so-vereign authority, &c. suspend, stop, and disable, all laws or acts of parliament made or executed against any of our Roman Catholic subjects, so that they shall be free to exercise their religion and to enjoy all; but they are to exercise in houses or chapels: and we cass, annul, and discharge all oaths by which our subjects are disabled from holding offices.” He concludes by confirming the proprietors of church lands in their possession, which seemed to be wholly unnecessary while the Protestant establishment endured; and adds an assurance more likely to disquiet than to satisfy, “that he will not use force against any man for the Protestant religion.”

In a short time afterwards,^c he extended this indulgence to those Presbyterians who scrupled to take the test or any other oath. And in a few months more^d all restrictions on toleration were removed, by the permission granted to all persons to serve God in their own manner in private houses, chapels, or houses built or hired for the purpose;^e or, in other words, he established, by his own sole authority, the most unbounded liberty

^a Life of James II. 81. “He,” says the biographer, “had no other oracle to apply to on intricate points.”

^b 12th February, 1687. Woodrow, ii. App. No. 129. London Gazette, 28th February to 3d March.

^c 31st March, 1687. Woodrow, ii. App. No. 132.

^d 5th July, 1687. Id. No. 134. ^e Fountainhall, i. 463.

of worship and religious instruction, either in public or in private, in a country where the laws treated every act of dissent from the established religion as one of the most heinous crimes. There is no other example, perhaps, of so excellent an object being pursued by means so culpable, or for purposes in which evil was so much blended with good.

James was equally astonished and incensed at the resistance of the Church of England. Their warm professions of loyalty; their acquiescence in measures directed only against civil liberty; their solemn condemnation of forcible resistance to oppression (the lawfulness of which constitutes the main strength of every opposition to misgovernment), had persuaded him, that they would look patiently on the demolition of all the bulwarks of their own wealth, and greatness, and power, and submit in silence to measures which, after stripping the Protestant religion of all its temporal aid, might at length leave it exposed to persecution. He did not distinguish between legal opposition and violent resistance : he believed in the adherence of multitudes to professions poured forth in a moment of enthusiasm; and he was so ignorant of human nature as to imagine, that speculative opinions of a very extravagant sort, even if they could be stable, were sufficient to supersede interest and habits, to bend the pride of high establishments, and to stem the passions of a nation in a state of intense excitement. Yet James had been admonished by the highest authority to beware of this delusion. Morley, Bishop of Winchester, a veteran royalist and episcopalian, whose fidelity had been tried, but whose judgment had been informed in the civil war almost with his dying breath desired Lord Dartmouth to warn the King, that if ever he depended on the doctrine of non-resistance he would find himself deceived, for that most of the Church would contradict it in their practice though not in terms. It was to no purpose that Dartmouth frequently reminded him of Morley's last message ; for he answered, that the Bishop was a good man, but grown old and timid." ^a

It must be owned, on the other hand, that there were not wanting considerations which excuse the expectation and explain the disappointment of James. Wiser men than he have been the dupes of that natural prejudice, which leads us to look for the

^a Lord Dartmouth's note. Burnet, ii. 428. Oxford, 1723.

same consistency between the different parts of conduct which is in some degree found to prevail among the different reasonings and opinions of every man of sound mind. It cannot be denied that the Church had done much to delude him. For they did not content themselves with never controverting, or even confine themselves to calmly preaching the doctrine of non-resistance, which might be justified and perhaps commended, but it was constantly and vehemently inculcated : furious preachers treated all who doubted it with the fiercest scurrility,^a and the most pure and gentle were ready to introduce it harshly and unseasonably ;^b and they all boasted of it, perhaps with reason, as a peculiar characteristic which distinguished the Church of England from other Christian communities. Nay, if a solemn declaration from an authority second only to the Church, assembled in a national council, could have been a security for their conduct, the judgment of the University of Oxford, in their convocation in 1683, may seem to warrant the utmost expectations of the King. For among other positions condemned by that learned body, one was, "that if lawful governors become tyrants, or govern otherwise than by the laws of God or man they ought to do, they forfeit the right they had unto their government."^c Now, it is manifest, that, according to this determination, if the King had abolished parliaments, shut the courts of justice, and changed the law according to his pleasure, he would nevertheless retain the same rights as before over all his subjects ; that any part of them who resisted him would still contract the full guilt of rebellion ; and that the co-operation of the sounder portion to repress the revolt would be a moral duty and a lawful service. How, then, could it be reasonable to withstand him in far less assaults on his subjects, and to turn against him laws which owed their continuance solely to his

^a South, *passim*.

^b Tillotson on the death of Lord Russell.

About a year before the time to which the text alludes, in a visitation sermon preached before Sancroft by Kettlewell, an excellent man, in whom nothing was stern but this principle, this doctrine is inculcated to such an extent as, according to the usual interpretation of the passage in Paul's Epistle to the Romans (xiii. 2.), to prohibit resistance to Nero ; "who," says the preacher, "invaded honest men's estates to supply his own profusion, and embrued his hands in the blood of any he had a pique against, without any regard to law or justice."

The homily, or exhortation to obedience, composed under Edward VI., in 1547, by Cranmer, and sanctioned by authority of the Church, asserts it to be "the calling of God's people to render obedience to governors, although they be wicked or wrong-doers, and *in no case to resist*."

^c Oxford Decree, art. 3. Also art. 4. and 9. Collier, Ecc. Hist. ii. 902.

good pleasure. Whether this last mode of reasoning be proof against all objections, it was at least specious enough to satisfy the King, when it agreed with his passions and supposed interest. Under the influence of these natural delusions, we find him filled with astonishment at the prevalence of the ordinary motives of human conduct over an extravagant dogma, and beyond measure amazed that the Church should oppose the Crown after the King had become the enemy of the Church. "Is this your Church of England loyalty?" he cried to the fellows of Magdalen College. In his confidential conversations he now spoke with the utmost indignation of this inconsistent and mutinous Church. Against them, he told the nuncio, that he had by his declaration struck a blow which would resound through the country.^a He ascribed their unexpected resistance to a consciousness that, in a general liberty of conscience, "the Anglican religion would be the first to decline."^b Sunderland, in speaking of the Church to the same minister, exclaimed, "Where is now their boasted fidelity?"^c "The declaration," he added, "has mortified those who have resisted the King's pious and benevolent designs: the Anglicans are a ridiculous sect, who affect a sort of moderation in heresy, by a compost and jumble of all other persuasions; and who, notwithstanding the attachment which they boast of having maintained to the monarchy and the royal family, have proved on this occasion the most insolent and contumacious of men."^d

After the refusal to comply with his designs, on the ground of conscience, by Admiral Herbert, a man of loose life, loaded with the favours of the Crown, and supposed to be as sensible of the obligations of honour as he was negligent of those of religion and morality, James declared to Barillon, that he never could put confidence in any man, however attached to him, who affected the character of a zealous Protestant.^e

^a D'Adda, 21 Marzo, 1687; "un colpo strepitoso."

^b Ibid. "Perche la religione Anglicana sarebbe stata la prima a declinare in questa mutazione."

^c Ibid. 18th April, 1687.

^d Ibid. and 4th April, 1687.

^e Barillon, 24ème Mars, 1687.

CHAPTER VI.

Attempt to conciliate the Nonconformists.—Review of their Sufferings.—Baxter.—Bunyan.—Presbyterians.—Independents.—Baptists.—Quakers.—Addresses of Thanks for the Declaration.

THE declaration of indulgence, however, had one important purpose beyond the assertion of prerogative ; the advancement of the Catholic religion, or the gratification of anger against the unexpected resistance of the Church. It was intended to divide Protestants, and to obtain the support of the Nonconformists. The same policy had, indeed, failed in the preceding reign ; but it was not unreasonably hoped by the Court, that the sufferings of twenty years had irreconcilably inflamed the dissenting sects against the Establishment, and at length taught them to prefer their own personal and religious liberty to vague and speculative opposition to the papacy, the only bond of union between the discordant communities who were called Protestants. It was natural enough to suppose, that they would show no warm interest in universities from which they were excluded, or for prelates who had excited persecution against them ; and that they would thankfully accept the blessings of safety and repose, without anxiously examining whether the grant of these advantages was consistent with the principles of a constitution which treated them as unworthy of all trust or employment. The penal law from which the declaration tendered relief, was not such as to dispose them to be very jealous of the mode of its removal. An act in the latter years of Queen Elizabeth^a had made refusal to attend the established worship, or presence at that of the Dissenters, punishable by imprisonment, and, unless atoned for by conformity within three months, by perpetual banishment,^b enforced by death if the offender should return. Within three years after the solemn promise of

^a 35 Eliz. c. 1 (1593).

^b A sort of exile, called, in our old law, abjuring the realm, in which the offender was to banish himself.

liberty of conscience from Breda, this barbarous law, which had been supposed to be dormant, was declared by parliament to be in force,^a in an act which subjected every one attending any worship but that established, where more than five were present, on the third offence, to transportation for seven years to any of the colonies, except New England and Virginia, the only plantations where they might be consoled by their fellow religionists, and where labour in the fields was not fatal to an European; and in case of their return, an event not very probable, after having laboured for seven years as the slaves of their enemies under the sun of Barbadoes, they were doomed to death. Almost every officer, civil or military, was empowered and encouraged to disperse their congregations as unlawful assemblies, and to arrest their ring-leaders. A conviction before two magistrates, and in some cases before one, without any right of appeal or publicity of proceeding, was sufficient to expose a helpless or obnoxious Nonconformist to these tremendous consequences. By a refinement in persecution, the gaoler was instigated to disturb the devotions of his prisoners; being subject to a fine if he allowed any one who was at large to join them^b in their religious worship. The pretext for this statute consisted in some riots and tumults in Ireland and in Yorkshire, which were evidently viewed by the ministers themselves with more scorn than fear.^c It was, however, only temporary; a permanent law, equally tyrannical, was passed in the next session.^d Every dissenting clergyman was forbidden from coming within five miles of his former congregation, or of any corporate town or parliamentary borough, under a penalty of forty pounds unless he should take the following oath:—"I swear that it is not lawful, upon any pretence whatsoever, to take up arms against the King, or those commissioned by him, and that I will not at any time endeavour any alteration of government in Church or State." In vain did Lord Southampton raise his dying voice against this tyrannical act, though it was almost the last exercise of the ministerial power of his friend and colleague Clarendon; "vehemently" condemning the oath, which, royalist as he was, he declared he could not take, and he believed no honest man could.^e A faint and transient gleam of

^a 16 Car. II. c. 4 (1664).

^b S. 12.

^c Original correspondence in Ralph, ii. 97, etc. "As these plots," says that writer, "were contemptible or formidable, we must acquit or condemn this reign."

^d 17 Car. II. c. 2 (1665).

^e Locke. Letter from a Person of Quality.

indulgence followed the downfall of Clarendon: but, in the year 1670, another act was passed, reviving that of 1664, with some mitigations of punishment, and amendments in the form of proceeding;^a but with several provisions of a most unusual nature, which, by their manifest tendency to stimulate the bigotry of magistrates, rendered it a sharper instrument of persecution. Of this nature was the declaration, that the statute was to be construed most favourably for the suppression of conventicles, and for the encouragement of those engaged in it, of which the malignity must be measured by its effect in exciting all public officers, and especially the lowest, to constant vexation and frequent cruelty towards the poorer Nonconformists, who were marked by such language as the objects of the fear and hatred of the legislature. After the defeat of Charles's attempt to relieve all Dissenters by his usurped prerogative, the alarms of the House of Commons began to be confined to the Catholics, and they relented towards their Protestant brethren, and conceived designs of union with the more moderate, as well as of indulgence towards those whose dissent was irreconcilable. But these designs proved abortive. The Court resumed its animosity to the Dissenters, when it became no longer possible to employ them as a shelter for the Catholics: the laws were already sufficient for all practicable purposes of intolerance, and the execution of them was in the hands of bitter enemies, from the Lord Chief Justice to the pettiest constable. The temper of the established clergy was such, that even the more liberal of them^b gravely reprov'd the victims of such laws for complaining of persecution. The inferior gentry, who constituted the magistracy, ignorant, intemperate, and tyrannical, treated dissent as rebellion, and in their conduct to Puritans were actuated by no principles but a furious hatred of those whom they thought the enemies of the monarchy. The whole jurisdiction, in cases of nonconformity, was so vested in that body, as to release them in its exercise from the greater part of the restraints of fear and shame. With the sanction of the legislature, and the countenance of the government, what indeed could they fear from a proscribed party, consisting chiefly of the humblest and poorest men? From shame they were effectually secured, since that which is not public cannot be made shameful. The particulars of the con-

^a 22 Car. II. c. I (1670).

^b Stillingfleet. Mischief of Separation.

viction of a Dissenter might be unknown beyond his village; the evidence against him, if any, might be confined to the room where he was convicted; and in that age of slow communication, few men would incur the trouble or obloquy of conveying to their correspondents the hardships inflicted with the apparent sanction of law, in remote and ignorant districts, on men at once obscure and odious, often provoked by their sufferings into intemperance and extravagance. It must also be observed, that imprisonment is, of all punishments, the most quiet and convenient mode of persecution. The prisoner is silently hid from the public eye; his sufferings, being unseen, speedily cease to excite pity or indignation: he is soon doomed to oblivion. As imprisonment is always the safest punishment for an oppressor to inflict, so it was in that age, in England, perhaps the most cruel. Some estimate of the sad state of a man, in suffering the extremity of cold, hunger, or nakedness, in one of the dark and noisome dungeons, then called prisons, may be formed by the remains of such buildings, which industrious benevolence has not yet every where demolished. Being subject to no regulation, and without means of regular sustenance for prisoners, they were at once the scene of debauchery and famine. The Puritans, the most severely moral men of any age, were crowded in cells with those profligate and ferocious criminals with whom the kingdom then abounded. We learn from the testimony of the legislature itself, that "needy persons committed to goal many times perished before their trial."^a We are told by Thomas Ellwood, the Quaker, a friend of Milton, that when a prisoner in Newgate for his religion, he saw the heads and quarters of men executed for treason kept for some time close to the cells, and the heads tossed about in sport by the hangman and the more hardened malefactors.^b The description given by George Fox, the founder of the Quakers, of his own treatment when a prisoner at Launceston, too clearly exhibits the unbounded power of gaolers, and its most cruel exercise.^c It was no wonder that, when prison-

^a 18 et 19 Car. II. c. 9. Evidence more conclusive, from its being undesignedly dropped, of the frequency of such horrible occurrences in the gaol of Newgate, transpires in a controversy between a Catholic and Protestant clergyman, about the religious sentiments of a dying criminal, and is preserved in a curious pamphlet, called "The Pharisee Unmasked." 1687.

^b Ellwood's Life. "This prison, where are so many, suffocates the spirits of aged ministers." Life of Baxter, part iii. 200.

^c George Fox. Journal, 186, where the description of the dungeon called "Doomsdale" surpasses all imagination.

ers were brought to trial at the assizes, the contagion of gaol fever should often rush forth with them from these abodes of all that was loathsome and hideous, and sweep away judges, and jurors, and advocates, with its pestilential blast. The mortality of such prisons must have surpassed the imaginations of more civilised times; and death, if it could be separated from the long sufferings which led to it, might perhaps be considered as the most merciful part of the prison discipline of that age. It would be exceedingly hard to estimate its amount, even if the difficulty were not enhanced by the prejudices which led either to extenuation or aggravation. Prisoners were then so forgotten, that tables of their mortality were not to be expected; and the very nature of that atrocious wickedness which employs imprisonment as the instrument of murder, would, in many cases, render it impossible distinctly and palpably to show the process by which cold and hunger beget long distempers, only to be closed by mortal disease. The computations have been attempted, as was natural, chiefly by the sufferers. William Penn, a man of such virtue as to make his testimony weighty, even when borne to the sufferings of his party, publicly affirmed at the time, that since the Restoration "more than five thousand persons had died in bonds for matters of mere conscience to God."^a Twelve hundred Quakers were enlarged by James.^b The calculations of Neale, the historian of the Nonconformists, would carry the numbers still farther; and he does not appear, on this point, to be contradicted by his zealous and unwearied antagonist.^c But if we reduce the number of deaths to one half of Penn's estimate, and suppose that number to be the tenth of the prisoners, the mortality will afford a dreadful measure of the sufferings of twenty-five thousand prisoners; and the misery within the gaols will too plainly indicate the beggary;^d and banishment, disquiet, vexation, fear, and horror, which were spread among the whole body of Dissenters.

The sufferings of two memorable Dissenters, differing from each other still more widely in opinions and disposition than in station and acquirement, may be selected as proofs that no character was

^a "Good Advice to the Church of England."

^b Address of the Quakers to James II. Clarkson, i. 492. London Gazette, 23d and 26th May, 1687.

^c Grey's Examination of Neale. 3 vols. 8vo. 1738.

^d Fifteen thousand families ruined. "Penn's Good Advice." In this tract, very little is said of the dispensing power; the far greater part consisting of a noble defence of religious liberty, applicable to all ages and communions.

so high as to be beyond the reach of this persecution, and no condition so humble as to be beneath its notice. Richard Baxter, one of the most acute and learned as well as pious and exemplary men of his age, was the most celebrated divine of the Presbyterian persuasion. He was so well known for his moderation as well as his general merit, that at the Restoration he was made chaplain to the King, and a bishopric was offered to him, which he declined, not because he deemed it unlawful,^a but because it might engage him in severities against the conscientious, and because he was unwilling to give scandal to his brethren by accepting preferment in the hour of their affliction. He joined in the public worship of the Church of England, but preached to a small congregation at Acton, where he soon became the friend of his neighbour, Sir Matthew Hale, who, though then a magistrate of great dignity, avoided the society of those who might be supposed to influence him, and, from his jealous regard to independence, chose a privacy as simple and frugal as that of the pastor of a persecuted flock. Their retired leisure was often employed in high reasoning on those sublime subjects of metaphysical philosophy to which both had been conducted by their theological studies, and which, indeed, few contemplative men of elevated thought have been deterred by the fate of their forerunners from aspiring to comprehend. Honoured as he was by such a friendship, esteemed by the most distinguished persons of all persuasions, and consulted by the civil and ecclesiastical authorities in every project of reconciliation and harmony, Baxter was five times in fifteen years dragged from his retirement, and thrown into prison as a malefactor. In 1669, two subservient magistrates, one of whom was steward of the Archbishop of Canterbury, summoned him before them for preaching at a conventicle: Hale, too surely foreknowing the event, could scarcely refrain from tears when he heard of the summons. He was committed for six months; and, after the unavailing intercession of his friends with the King, was at length enlarged in consequence of informalities in the commitment.^b Twice he afterwards escaped by irregularities into which the precipitate zeal of ignorant persecutors had betrayed them. Once, when his physician made oath that imprisonment would be dangerous to his life, he owed his enlargement to the pity or prudence of Charles II. At last, in the year 1685, he was brought

^a Baxter's Life, 281, 282.

^b Baxter's Life. Calamy's Abridgment, part iii. 47—51, etc.

to trial for supposed libels, before Jeffreys, in the Court of King's Bench, where his venerable friend had once presided, where two chief justices, within ten years, had exemplified the extremities of human excellence and depravity, and where he whose misfortunes had almost drawn tears down the aged cheeks of Hale was doomed to undergo the most brutal indignities from Jeffreys.

The history and genius of Bunyan were as much more extraordinary than those of Baxter as his station and attainments were inferior. He is probably at the head of unlettered men of genius, and perhaps there is no other instance of any man reaching fame from so abject an origin; for the other extraordinary men who have become famous without education, though they were without what is called learning, have had much reading and knowledge, and though they were repressed by poverty, were not, like him, sullied by a vagrant and disreputable occupation. By his trade of a travelling tinker, he was from his earliest years placed in the midst of profligacy, and on the verge of dishonesty. He was for a time a private in the parliamentary army; the only military service which was likely to elevate his sentiments and amend his life. Having embraced the opinions of the Baptists, he was soon admitted to preach in a community which did not recognise the distinction between the clergy and the laity.^a Even under the Protectorate he was harassed by some busy magistrates, who took advantage of a parliamentary ordinance, excluding from toleration those who maintained the unlawfulness of infant baptism.^b But this officiousness was checked by the spirit of the government; and it was not till the return of intolerance with Charles II. that the sufferings of Bunyan began. Within five months after the restoration, he was apprehended under the statute of the thirty-fifth of Elizabeth, and was thrown into prison, or rather into a dungeon, at Bedford, where he remained for twelve years. The narratives of his life exhibit remarkable specimens of the acuteness and fortitude with which he withstood the threats and snares of the magistrates, and

^a "Grace abounding," by Bunyan himself. Ivimey's Life of Bunyan. Iv. Hist. of Baptists.

^b Scobell's Ordinances, chap. 114. 22d April, 1648. This exception is omitted in a subsequent ordinance against blasphemous opinions (9th August, 1650), directed chiefly against the Antinomians, who were charged with denying the obligation of morality, the single case where the danger of nice distinction is the chief objection to the use of punishment against the promulgation of opinions. Religious liberty was afterwards carried much nearer to its just limits by the letter of Cromwell's constitution, and probably to its full extent by its spirit. Humble Petition and Advice, s. xi. 1656. Scob. 380.

clergymen, and attorneys, who beset him. He foiled them in every contest of argument; especially in that which relates to the independence of religion on civil authority, which he expounded with clearness and exactness, for it was a subject on which his naturally vigorous mind was better educated by his habitual meditations than it could have been by the most skilful instructor. In the year after his apprehension, he made some informal applications for release to the judges of assize, to whom his petition was presented by his wife, who was treated by one of them, Twisden, with brutal insolence. His colleague, Sir Matthew Hale, listened to her with patience and goodness; and with consolatory compassion pointed out to her the only legal means of obtaining redress. It is a singular gratification thus to find a human character, which if it be met in the most obscure recess of the history of a bad time, is sure to display some new excellence. The conduct of Hale on this occasion can be ascribed only to strong and pure benevolence; for he was unconscious of Bunyan's genius, he disliked preaching mechanics, and he partook the general prejudice against Anabaptists. In the long years which followed, the time of Bunyan was divided between the manufacture of lace, which he learned in order to support his family, and the composition of those works which have given celebrity to his sufferings. He was at length released, in 1672, by Barlow, Bishop of Lincoln; but not till the timid prelate had received an injunction from the Lord Chancellor^a to that effect. He availed himself of the indulgence of James II. without trusting it; and died unmolested in the last year of that prince's government. His "Pilgrim's Progress," an allegorical representation of the Calvinistic theology, at first found readers only among those of that persuasion, gradually emerged from this narrow circle, and by the natural power of imagination over the uncorrupted feelings of the majority of mankind at length rivalled Robinson Crusoe in popularity. The bigots and persecutors sunk into oblivion; the scoffs of wits^b and worldlings were unavailing; while, after the lapse of a century, the object of their cruelty and scorn touched the poetical sympathy as well as the piety of Cowper:^c his genius subdued the

^a Probably Lord Shaftesbury, who received the Great Seal in November, 1672. The exact date of Bunyan's complete liberation is not ascertained; but he was twelve years a prisoner, and had been apprehended in November, 1660. Ivimey, 289., makes his enlargement to be about the close of 1672.

^b Hudibras, part i. canto ii. v. 409, etc. A satire on preaching mechanics, illustrated by Grey's notes.

^c "O thou, who, borne on Fancy's eager wing," etc.

opposite prejudices of Johnson and of Franklin, and his name has been uttered in the same breath with those of Spenser and Dante.

It should seem, from this statement, that Lord Castlemain, a zealous Catholic, had some colour for asserting, that the persecution of Protestants by Protestants, after the Restoration, was more violent than that of Protestants by Catholics under Mary; and that the persecution then raging against the Presbyterians in Scotland was not so much more cruel as it was more bloody than that which silently consumed the bowels of England. Since the differences between Churchmen and Dissenters as such have given way to other controversies, such a recital can have no other tendency than that of disposing men to pardon each other's intolerance, and to abhor that fatal error itself, which all communions have practised, and of which some malignant roots still lurk among all. Without it, the policy of the King, in his attempt to form an alliance with the Dissenters, could not be understood, and must have been altogether hopeless. The general body of Nonconformists were divided into four parties, on whom the court acted through different channels, and who were variously affected by its advances. The Presbyterians, the more wealthy and educated portion, were the descendants of the ancient Puritans, who were rather desirous of reforming the Church of England than of separating from it; and though the breach was widened by the civil war, they might have been reunited at the Restoration by moderate concession in the form of worship, and by limiting the episcopal authority agreeably to the project of the learned Usher, and to the system of superintendency established among the Lutherans. They gradually, indeed, learned to prefer the perfect equality of the Calvinistic clergy; but they did not profess that exclusive zeal for it which actuated their Scottish brethren, who had received their reformation from Geneva. Like men of other communions, they originally deemed it the duty of the magistrate to establish true religion, and to punish the crime of rejecting it. In Scotland they continued to be sternly intolerant; in England they reluctantly acquiesced in imperfect toleration. Their object was then what was called a comprehension, or such an enlargement of the terms of communion as might enable them to unite with the Church; a measure which would have broken the strength of the Dissenters, to the eminent hazard of civil liberty. From them the King had the least hopes. They were undoubtedly much more hostile to the Establishment after twenty-five years'

persecution. But they were still connected with the tolerant clergy; and as they continued to aim at something besides mere toleration, they considered the royal declaration, even if honestly meant, as only a temporary advantage.

The *Independents*, or Congregationalists, were so called from their adoption of the opinion, that every congregation or assembly for worship was a church perfectly independent of all others, choosing and changing their own ministers, maintaining with other congregations an amicable and fraternal intercourse, but acknowledging no authority in all the other churches of Christendom to interfere with the internal concerns of a single congregation. Their churches were merely voluntary associations, in which the office of teacher might be conferred by the suffrages of the members on any man, and withdrawn from him when he ceased to be acceptable. The members were equal, and the government was perfectly democratical; if the term government may be applied to assemblies which endured only as long as the members agreed in judgment, and which, leaving all coercive power to the civil magistrate, exercised no authority but that of admonition, censure, and exclusion. They disclaimed the qualifications of "national" as repugnant to the nature of "a church."^a The religion of the Independents could not, without destroying its nature, be established by law. They never could aspire to more than religious liberty, and they accordingly have the honour to be the first, and long the only, Christian community who collectively adopted that sacred principle.^b It is true, that in the beginning they adopted the pernicious and inconsistent doctrine of limited toleration, excluding Catholics as idolaters; and in New England, where the great majority were of their persuasion, punishing even capitally dissenters from opinions which they accounted fundamental.^c But, as intolerance could promote no interest of theirs, real or imaginary, their true principles finally

^a "There is no true visible church of Christ, but a particular ordinary congregation only. Every ordinary assembly of the faithful hath power to elect and ordain, deprive and depose, their ministers. The pastor must have others joined with him by the congregation, to exercise ecclesiastical jurisdiction, neither ought he and they to perform any material act without the free consent of the congregation." Christian Offer of a Conference tendered to Archbishops, Bishops, etc. London, 1606.

^b An humble Supplication for Toleration and Liberty to James I. London, 1609: a tract which affords a conspicuous specimen of the ability and learning of the ancient Independents, often described as unlettered fanatics.

^c The Way of the Churches in New England, by Mr. J. Cotton. London, 1645; and the Way of Congregational Churches, by Mr. J. Cotton. London, 1648; in answer to Principal Baillie.

worked out the stains of these dishonourable exceptions. The government of Cromwell, more influenced by them than by any other persuasion, made as near approaches to general toleration as public prejudice would endure; and Sir Henry Vane, an Independent, was probably the first who laid down, with perfect precision, the inviolable rights of conscience, and the exemption of religion from all civil authority. Actuated by these principles, and preferring the freedom of their worship even to political liberty, it is not wonderful that many of this persuasion gratefully accepted the deliverance from persecution which was proffered by the King.

Similar causes produced the like dispositions among the Baptists; a simple and pious body of men, generally unlettered, obnoxious to all other sects for their rejection of infant baptism, as neither enjoined by the New Testament nor consonant to reason; and in some degree, also, from being called by the same name with the fierce fanatics who had convulsed Lower Germany in the first age of the Reformation. Under Edward VI. and Elizabeth they suffered death for their religion. At the Restoration they were distinguished from other Nonconformists by a brand in the provision of a statute,^a which excluded every clergyman who had opposed infant baptism from re-establishment in his benefice.

They suffered more than any other persuasion under Charles II. They had publicly professed the principles of religious liberty.^b They appear to have adopted also the congregational system of ecclesiastical polity. Like the Independents they had espoused the cause of republicanism. They were more incapable of union with the established church, and had less reason to hope for toleration from its adherents than the Independents themselves. Many, perhaps at first most of them, eagerly embraced the indulgence. Thus, the sects who maintained the purest principles of religious liberty, and had supported the most popular systems of government, were more disposed than others to favour a measure which would have finally buried toleration under the ruins of political freedom.

But of all Dissenters, those who needed the royal indulgence most, and who could accept it most consistently with their religious principles, were the Quakers. They sought perfection, by renouncing pleasures, of which the social nature promotes kindness,

^a 12 Car. II. c. 17.

^b Crosby, Hist. of Baptists, ii. 100—144.

and by converting self-denial, a means of moral discipline, into one of the ends of life. It was their more peculiar and honourable error, that by a literal interpretation of that affectionate and ardent language in which the Christian religion inculcates the pursuit of peace and the practice of beneficence, they struggled to extend the sphere of these most admirable of virtues beyond the boundaries of nature. They adopted a peculiarity of language, and an uniformity of dress, indicative of humility and equality, of brotherly love, the sole bond of their pacific union, and of the serious minds of men who lived only for the performance of duty. They took no part in strife, renounced even defensive arms, and utterly condemned the punishment of death.

George Fox, during the civil war, was the founder of this extraordinary community. At a time when personal revelation was generally believed, it was a pardonable self-delusion that he should imagine himself to be commissioned by the Divinity to preach a system which could only be objected to as too pure to be practised by man.^a This belief, and an ardent temperament, led him and some of his followers into unseasonable attempts to convert their neighbours, and unseemly intrusions into places of worship for that purpose, which excited general hostility against them and exposed them to frequent and severe punishments. One or two of them, in the general fermentation of men's minds, had at that time uttered opinions which all other sects considered as blasphemous. These peaceable men became the objects of general abhorrence. Their rejection of the most religious rites, their refusal to sanction testimony by a judicial oath, or to defend their country in the utmost danger, gave plausible pretexts for representing them as alike enemies to religion and the commonwealth; and the fantastic peculiarities of their language and dress seemed to be the badge of a sullen and morose secession from human society. Proscribed as they were by law and prejudice, they gladly received the boon held out by the King. They indeed were the only consistent professors of passive obedience: as they resisted no wrong, and never sought to disarm hostility otherwise than by benevolence, they naturally yielded with unresisting submission to the injustice of tyrants. An-

^a A Journal of the Life of George Fox, by himself. 4to. London, 1694. One of the most extraordinary and instructive narratives in the world, which no reader of competent judgment can peruse without revering the virtue of the writer, pardoning his self-delusion, and ceasing to smile at his peculiarities.

other circumstance also contributed, still more perhaps than these general causes, to throw the Quakers into the hands of James. Although they, like most other religious sects, had arisen in the humble classes of society, who, from their numbers and simplicity, are alone susceptible of those sudden and simultaneous emotions which change opinions and institutions, they had early been joined by a few persons of superior rank and education, who, in a period of mutation in government and religion, long contemplated the benevolent visions of the Quakers with indulgent complacency, until at length they persuaded themselves that this pure system of peace and charity might be realised, if not among all men, at least by a few of the wisest and best. Such a hope would gradually teach them to tolerate, and in time to adopt, the peculiarities of their simpler brethren, and to give the most rational interpretation to the language and pretensions of their founders, consulting reason in their doctrines, and indulging enthusiasm only in their hopes and affections.^a Of these first who systematised, and perhaps insensibly softened, the Quaker creed, was Barclay, a gentleman of Scotland, in his *Apology for the Quakers*; a masterpiece of ingenious reasoning, and a model of argumentative composition, which extorted praise from Bayle, one of the most acute and least fanatical of men.^b The most distinguished of their converts was William Penn, whose father, Admiral Sir William Penn, had been a personal friend of the King, and one of his instructors in naval affairs. This admirable person had employed his great abilities in support of civil as well as religious liberty, and had both acted and suffered for them under Charles II. Even if he had not founded the commonwealth of Pennsylvania as an everlasting memorial of his love of freedom, his actions and writings in England would have been enough to absolve him from the charge of intending to betray the rights of his countrymen. But though the friend of Algernon Sidney,^c he had never ceased to intercede, through his friends at court, for the persecuted. An absence of two years in America, and the occupation of his mind, had probably loosened the connexion with English politicians, and rendered him less acquainted with the principles of the government. On the accession of James he was

^a Mr. Swinton, a Scotch judge during the Protectorate, was one of the earliest of these converts.

^b *Nouvelles de la République des Lettres*. Avril, 1681.

^c Clarkson's *Life of Penn*, i. 248.

received by that prince with favour, and hopes of indulgence to his suffering brethren were early held out to him. He was soon admitted to terms of apparent intimacy, and was believed to possess such influence that two hundred suplicants were often seen at his gates, imploring his intercession with the King. That it really was great, appears from his obtaining a promise of pardon for his friend Mr. Locke, which that illustrious man declined, because he thought that the acceptance would have been a confession of criminality.^a He appears in 1679, by his influence on James when in Scotland, to have obtained the release of all the Scotch Quakers who were imprisoned;^b and he obtained the release of many hundred Quaker prisoners in England,^c as well as letters from Lord Sunderland to the lord lieutenants in England for favour to his persuasion,^d several months before the declaration of indulgence. It was no wonder that he should be gained over by this power of doing good. The very occupations in which he was engaged brought daily before his mind the general evils of intolerance, and the sufferings of his own unfortunate brethren. Though well stored with useful and ornamental knowledge, he was unpractised in the wiles of courts; and his education had not trained him to dread the violation of principle so much as to pity the infliction of suffering. It cannot be doubted that he believed the King's object to be universal liberty in religion, and nothing further. His own sincere piety taught him to consider religious liberty as unspeakably the highest of human privileges, and he was too just not to be desirous of bestowing on all other men that which he most earnestly sought for himself. He who refused to employ force in the most just defence, felt a singular abhorrence of its exertion to prevent good men from following the dictates of their conscience.

Such seem to have been the motives which induced this excellent man to lend himself to the measures of the King. Compassion, friendship, liberality, and toleration, led him to support a system of which the success would have undone his country, and afforded a remarkable proof that, in the complicated combinations of political morality, a virtue misplaced may produce as much immediate

^a Clarkson, i. 433, 438. Mr. Clarkson is among the few writers from whom I should venture to adopt a fact for which the original authority is not mentioned. By his own extraordinary services to mankind, he has deserved to be the biographer of William Penn.

^b Address of Scotch Quakers, 1687.

^c George Fox's Journal, 550. 10th July, 1686. "Fifteen or sixteen hundred."

^d State Paper Office, November and December, 1686.

mischief as a vice. The Dutch minister represents "the Arch-quaker" as travelling over the kingdom to gain proselytes to the dispensing power.^a Duncombe, a banker in London, and (it must in justice, though in sorrow, be added) Penn, were the two Protestant counsellors of Lord Sunderland.^b Henceforward, it became necessary for the friends of liberty to deal with him as an enemy, to be resisted when his associates were in power, and watched after they had lost it.

Among the Presbyterians, the King's chief agent was Alsop, a preacher at Westminster, who was grateful to him for having spared the life of a son convicted of treason. Baxter, that venerable patriarch, and Howe, one of their most eminent divines, refused any active concurrence in the King's projects. Lobb, one of the most able of the independent divines, warmly supported the measures of James : he was favourably received at court, and is said to have been an adviser as well as an advocate of the King.^c An elaborate defence of the dispensing power, by Philip Nye, a still more eminent teacher of the same persuasion, who had been disabled from office at the restoration, written on occasion of Charles the Second's declaration of indulgence in 1672, was now republished by his son, with a dedication to James.^d

Among the Baptists, Kiffin, the pastor of their chief congregation, and at the same time an opulent merchant in London, who, with his pastoral office, had held civil and military stations under the parliament, withstood the prevalent disposition of his communion towards compliance. The few fragments of his life illustrate the character of the calamitous times in which he lived. Soon after the restoration, he obtained a pardon for twelve persons of his persuasion, who were condemned to death at the same assize at Aylesbury, under the atrocious statute of the 35th of Elizabeth, for refusing either to abjure the realm or to conform to the Church of England.^e

Attempts were made to ensnare him into treason by anonymous letters, inviting him to take a share in plots which had no existence. He was harassed by false accusations, some of which made him personally known to Charles II. and to Clarendon. The King

^a Van Citters to the States General, 4 (14) October, 1687.

^b Johnstone, 25th November, 1687. ^c Wilson's Dissenting Churches, iii. 436.

^d Wilson's Dissenting Churches, iii. 71. "The King's Authority vindicated," by the late P. Nye. London, 1687.

^e Orme's Life of Kiffin, 120. Crosby's Hist. of the Baptists, ii. 181, etc.

applied to him personally for the loan of forty thousand pounds, which he declined, offering the gift of ten thousand, which was accepted; on which he congratulated himself, as an expedient by which he had saved thirty thousand pounds. Two of his grandsons suffered death for being engaged in Monmouth's revolt. He had offered three thousand pounds to a courtier for their preservation; and Jeffreys, on the trial of one of them, declared, that had Kiffin, their grandfather, been also at the bar, he would have deserved death as much as his grandson. James, at an interview, endeavoured to persuade him to accept the office of alderman, under the protection of the dispensing and suspending power. He pleaded his inability from age (he was then seventy), and he could not speak of his grandsons but he burst into tears. The King understood this language, and answered with no small grossness, "Balm shall be poured into that wound." But Kiffin dissuaded all his dissenting friends from being ensnared by the court, and at last only accepted the office from fear of a ruinous fine.

Every means were employed to excite the Nonconformists to thank the King for his indulgence. He himself assured D'Adda, that it would be of the utmost service to trade and population, by recalling the numerous emigrants "who had been driven from their country by the persecution of the Anglicans."^a His common conversation now turned on the cruelty of the Church of England, and their violent persecution of the Dissenters, which he declared that he would have closed sooner, had he not been restrained by those who promised favour to his own religion, if they were still suffered to vex the Dissenters.^b This last declaration was contradicted by the parties whom he named; and their denial might be credited with less reserve, had not one of the principal leaders of the episcopal party in Scotland owned that his friends would have been contented if they could have been assured of retaining the power to persecute Presbyterians.^c He even ordered an enquiry into the suits against Dissenters in ecclesiastical courts, and the compositions which they paid, in order to make a scandalous disclosure of the extortion and venality practised under

^a D'Adda, 1 (11) Aprile 1687:—"Mentre tanti che desertavano il paese per la persecuzione delli Anglicani se trovabbersi stato di quiete e tranquillità per repatriari."

^b Burnet, iii. 175. Oxford, 1823.

^c "If it had not been for the fears of encouraging by such a liberty the fanatics, then almost entirely ruined, few would have refused to comply with all your Majesty's demands." Account of Affairs of Scotland, by the Earl of Balcarras, p. 8.

cover of the penal laws.^a He and Lord Sunderland assured the nuncio, that the established clergy traded in such compositions.^b The most just principles of unbounded freedom in religion were now the received creed at St. James's. Even Sir Roger L'Estrange endeavoured to save his consistency, by declaring, that though he had for twenty years resisted religious liberty as a right of the people, he acquiesced in it as a boon from the King.

On the other hand, exertions were made to warn the Dissenters of the snare which was laid for them. The Church began to make tardy efforts to conciliate them, especially the Presbyterians. The King was agitated by this canvass, and frequently trusted the nuncio^c with his alternate hopes and fears about it.

Burnet, the historian, then at the Hague, published a letter of warning to the Dissenters, in which he owns and deplures "the Persecution," acknowledging "the temptation under which the Nonconformists are to receive every thing which gives them present ease with a little too much kindness;" and blames more severely the members of the Church who applauded the Declaration, but entreats the Nonconformists not to promote the designs of the common enemy.^d The residence and connexions of the writer bestowed on this publication the important character of an admonition from the Prince of Orange. He had been employed by some leaders of the Church to procure that Prince's interference with the Dissenters, to prevent their being misled by the King;^e and Dykvelt, the Dutch minister, assured both the Church and the Dissenters of his Highness's resolution to promote union between them, and to maintain the common interest of Protestants.

Lord Halifax published, on the same occasion, a Letter to a Dissenter; the most perfect model, perhaps, of a political tract; which, although its whole argument, unbroken by diversion to general topics, is brought exclusively to bear with concentrated force upon the question, the parties, and the moment, cannot be

^a Burnet, *ibid.*

^b D'Adda, 8 (18) Aprile 1687 :—"Che releva la maggior parte dalla suggestione de ministri Anglicani che *facevano mercanzia* sopra le leggi fatti contro le Nonconformisti.

^c D'Adda, 2 Maio, 1687. Id. 4 Ap. 1687. "Si fanno *dall'altra parte* tutti gli sforzi per persuadere l'unione tra di esse (Protestants), la quale nondimeno pare incompatibile per le massime loro tanto opposte come sone quelli di Presbyteriani, il di cui numero è più forte e della gente più ricca."

^d State Tracts from Restoration to Revolution, ii. 289. London, 2 vol. folio, 1689—1692.

^e Burnet's Reflections on a Book called "Rights of a Convocation," 16.

read, after an interval of a century and a half, without admiration of its acuteness, address, terseness, and poignancy.^a

The Nonconformists were acted upon by powerful inducements and dissuasives. The preservation of civil liberty, the interest of the Protestant religion, the secure enjoyment of freedom in their own worship, were irresistible reasons against compliance. Gratitude for present relief, remembrance of recent wrongs, and a strong sense of the obligation to prefer the exercise of religion to every other consideration, were very strong temptations to a different conduct. Many of them owed their lives to the King, and the lives of others were still in his hands. The remembrance of Jeffreys's campaign was so fresh as perhaps still rather to produce fear than the indignation and distrust which appear in a more advanced stage of recovery from the wounds inflicted by tyranny. The private relief granted to some of their ministers by the court on former occasions afforded a facility for exercising adverse influence through these persons, the more dangerous because it might be partly concealed from themselves under the disguise of gratitude. The result of the action of these conflicting motives seems to have been, that the far greater part of all denominations of the Dissenters availed themselves of the declaration so far as to resume their public worship;^b that the most distinguished of their clergy and the majority of the Presbyterians resisted the solicitations of the court to sanction the dispensing power by addresses of thanks for this exertion of it; that all the Quakers, the greater part of the Baptists, and perhaps also of the Independents, did not scruple to give this perilous token of their misguided gratitude, though many of them confined themselves to thanks for toleration, and solemn assurances that they would not abuse it. About a hundred and eighty of these addresses were presented in ten months, of which there are only seventy-seven exclusively and avowedly from Nonconformists. If to these be added a fair proportion of them at first secretly and at last openly corporators and grand jurors, and a larger share of those who addressed under very general descriptions, it seems

^a Halifax Misc. 233. London, 1704.

^b Bates's Life of Philip Henry, in Wordsworth's Ecclesiastical Biography, vi. 290. "*They rejoiced with trembling.*" Henry refused to give in a return of the money levied on him in his sufferings, having, as he said, "long since from his heart forgiven all the agents in that matter. Mr. Bunyan clearly saw through the designs of the court, though he accepted the indulgence with a holy fear." Ivimey's Life of Bunyan, 297.

probable that they were almost equally divided between the Dissenting communions and the Established Church.^a We have a specimen of these mentioned by Evelyn in the address of the Churchmen and Dissenters of Coventry,^b and of a small congregation in the Isle of Ely, called the "family of love." His complaint^c that the declaration had thinned his own parish church of Deptford, and sent a great concourse of people to the Dissenters' meeting-house, throws light on the extent of the previous persecution, and the joyful eagerness of the Nonconformists to profit by their deliverance. The Dissenters were led astray not only by lights of the church, but by pretended guardians of the laws. Five bishops, Crew, bishop of Durham, with his chapter, Cartwright, bishop of Chester, with his chapter and clergy, Barlow, bishop of Lincoln, Wood, bishop of Lichfield, and Watson, bishop of St. David's, with the clergy of their dioceses, together with the dean and chapter of Ripon, addressed the King in terms which were indeed limited to his assurance of continued protection to the church, but at a time which rendered their addresses a sanction of the dispensing power. Croft, of Hereford, though not an addresser, was a zealous partisan of the measures of the court; the profligate Parker was unable to prevail on the chapter or clergy of Oxford to join him, and the accomplished Sprat was still a member of the ecclesiastical commission, in which character he held a high command in the adverse ranks; so that a third of the episcopal order refused to concur in the coalition which the church was about to form with public liberty. A bold attempt was made to obtain the appearance of a general concurrence of lawyers in approving the usurpations of the crown. From two of the four societies called Inns of Court, who have the exclusive privilege of admitting advocates to practise at the bar, the Middle and Inner Temple, addresses of approbation were published, which, from recent

^a The addresses from bishops and their clergy were seven; those from corporations and grand juries seventy-five; those from inhabitants, etc., fourteen; two from Catholics, and two from the Middle and Inner Temple. If six addresses from Presbyterians and Quakers in Scotland, Ireland, and New England be deducted, as it seems that they ought to be, the proportion of dissenting addresses was certainly less than one half. Some of them, we know, were the produce of a sort of personal canvass, when the King made his progress in autumn, 1687, "to court the compliments of the people," and one of them, in which Philip Henry joined, "was not to offer lives and fortunes to him, but to thank him for the liberty, and promise to demean themselves quietly in the use of it." Wordsworth, vi. 292. Address of Dissenters of Nantwich, Wem, and Whitchurch. London Gazette, 29th August, 1687.

^b Evelyn, Diary, 16th June, 1687.

^c Ibid. 10th April, 1687.

examination of the records of these bodies, do not appear to have been voted by either. The former, eminent above others by fulsome servility, is traditionally said to be the clandestine production of three of the benchers, of whom Chauncy, the historian of Hertfordshire, was one. That of the Inner Temple purports to be the act of certain students and the comptroller, an office of whose existence no traces have been discovered in the books of the inn. As Roger North had been treasurer of the Middle Temple three years before, and the crown lawyers were members of these societies, it is scarcely possible that the government should not have been apprised of the imposture which they countenanced by their official publication of these addresses.^a

The necessity of recurring to such a fraud, and the silence of the other law societies, may be allowed to form some proof that the independence of the bar was not yet utterly extinguished. The subserviency of the bench was so abject as to tempt the government into an interference with private suits, which is one of the last and rarest errors of statesmen under absolute monarchies. An official letter is still extant from Lord Sunderland, as Secretary of State, to Sir Francis Watkins, a judge of assize, recommending to him to show all the favour to Lady Shaftesbury, in the despatch of her suit, to be tried at Salisbury, which the justice of her cause shall deserve."^b So deeply degraded were the judges in the eyes of the ministers themselves.

^a London Gazette, June 9th, 1687.

^b 24th February, 1687. State Paper Office.

CHAPTER VII.

D'Adda publicly received as the Nuncio.—Dissolution of Parliament.—Final Breach.—Preparations for a new Parliament.—New Charters.—Removal of Lord Lieutenants.—Patronage of the Crown.—Moderate Views of Sunderland.—House of Lords.—Royal Progress.—Pregnancy of the Queen.—London has the Appearance of a Catholic City.]

THE war between the religious parties had not yet so far subsided as to allow the avowed intercourse of princes of the Protestant communions with the see of Rome. In the first violence of hostility, indeed, laws were passed in England forbidding, under pain of death, the indispensable correspondence of Catholics with the head of the church, and even the bare residence of Catholic priests within the realm.^a These laws, which never could be palliated except as measures of retaliation in a warfare of extermination, had been often executed without necessity and with slight provocation. It was most desirable to prevent their execution and to procure their repeal. But the object of the King in his embassy to Rome was to select these odious enactments, as the most specious case, in which he might set an example of the ostentatious contempt with which he was resolved to trample on every law which stood in the way of his designs. A nearer and more signal instance than the embassy to Rome was required by his zeal or his political projects. D'Adda was accordingly obliged to undergo a public introduction to the King at Windsor as apostolic nuncio from the pope; and his reception, being an overt act of high treason, was conducted with more than ordinary state, and announced to the public like that of any other foreign minister.^b The Bishops of Durham and Chester were perhaps the most remarkable attendants at the ceremonial. The Duke of Somerset, the second peer of the kingdom, was chosen from the Lords of the Bedchamber as the introducer; and his attendance in that charac-

^a 13 Eliz. c. 2. 35 Eliz. c. 1.

^b London Gazette, 4th to 7th July, 1687. MSS, D'Adda, 11 Giugl. 1687.

ter had been notified to the nuncio by the Earl of Mulgrave, Lord Chamberlain. But, on the morning of the ceremony, the Duke besought his Majesty to excuse him from the performance of an act which might expose him to the most severe animadversion of the law.^a The King answered, that he intended to confer an honour upon him, by appointing him to introduce the representative of so venerable a potentate, and that the royal power of dispensation had been solemnly determined to be a sufficient warrant for such acts. The King is said to have angrily asked, "Do you not know that I am above the law?"^b to which the Duke is represented by the same authorities to have replied, "Your Majesty is so, but I am not;" an answer which was perfectly correct, if it be understood as above punishment by the law. The Duke of Grafton introduced the nuncio. It was observed, that while the ambassadors of the emperor, and of the crowns of France and Spain, were presented by earls, persons of superior dignity were appointed to do the same office to the papal minister; a singularity rather rendered alarming than acceptable by the example of the court of France, which was appealed to by the courtiers on this occasion. The same ceremonious introduction to the Queen Dowager immediately followed. The King was very desirous of the like presentation to the Princess Anne, to whom it was customary to present foreign ministers. But the nuncio declined a public audience of an heretical princess;^c and though we learn that, a few days after, he was admitted by her to what is called "a public audience,"^d yet, as it is neither published in the Gazette, nor adverted to in his own letter, it seems probable that she only received him openly as a Roman prelate, who was to be treated with the respect due to his rank, with whom it was equally politic to avoid the appearance of clandestine intercourse and of formal recognition. The King said to the Duke of Somerset, "As you have not chosen to obey my commands in this case, I shall not trouble you with any other;" and immediately removed him from his place in the household, from his regiment of dragoons, and the lord lieutenancy of his county. He continued for some time to speak with indignation of this act of contumacy, and told the nuncio, that the Duke's nearest relations had thrown themselves

^a Van Citters to the States General, 15th July, 1687.

^b Perhaps saying, or meaning to say, "in this respect."

^c MSS. D'Adda, 16th Lugl. 1687.

^d Van Citters, 22d July, 1687.

at the feet of their sovereign, and assured him, that they detested the disobedience of their kinsman.^a The importance of the transaction consisted in its being a decisive proof of how little estimation were the judicial decisions in favour of the dispensing power in the eyes of the most loyal and opulent of the nobility.^b The most petty incidents in the treatment of the nuncio were at this time jealously watched by the public. By the influence of the new members placed by James in the corporation, that minister was invited to a festival annually given by the city of London, at which the diplomatic body were then, as now, accustomed to be present. Fearful of insult, and jealous of his precedence, he consulted Lord Sunderland, and afterwards the King, on the prudence of accepting the invitation.^c The King pressed him to go. His Majesty also signified to all the foreign ministers that their attendance at the festival would be agreeable to him. The Dutch^d and Swedish minister were absent. The nuncio was received unexpectedly well by the populace, and treated with becoming courtesy by the magistrates. But though the King honoured the festival with his presence, he could not prevail even on the aldermen of his own nomination to forbear from the thanksgiving, on the 5th of November, for deliverance from the Gunpowder Plot.^e On the contrary, Sir John Shorter, the Presbyterian mayor, made haste to atone for the invitation, by publicly receiving the communion according to the rites of the Church of England;^f a strong mark of distrust in the dispensing power, and of the determination of the Presbyterians to adhere to the common cause^g of Protestants.

Another occasion offered itself, then esteemed solemn, for the King, in his royal capacity, to declare publicly against the established Church. The kings of England had, from very ancient times, pretended to a power of curing scrofula by touching those who were afflicted by that malady; and the Church had retained, after the Reformation, a service for the occasion, in which her ministers officiated. James, naturally enough, employed the mass book, and

^a D'Adda, 16 Luglio, 1687.

^b Barillon, 21st July, 1687.

^c D'Adda, 28th Oct. (7th Nov.), 1687, and 4 (14) Nov. 1687.

^d According to the previous instructions of the States General, and the practice of their ministers at the congresses of Munster and Nimeguen. Van Citters.

^e Narc. Luttrell, Nov. 1687.

^f Van Citters, 14 (24) Nov. 1687.

^g It may be excusable to mention, that Catherine Shorter, the daughter and heiress of this Presbyterian mayor, became, long after, the wife of Sir Robert Walpole.

the aid of the Roman Catholic clergy, in the exercise of this pretended power of his crown, according to the precedents in the reign of Mary.^a As we find no complaint from the established clergy of the perversion of this miraculous prerogative, we are compelled to suspect that they had no firm faith in the efficacy of a ceremony which they solemnly sanctioned by their prayers.^b

On the day before the public reception of the nuncio, the dissolution of parliament announced a final breach between the Crown and the Church. All means had been tried to gain a majority in the House of Commons. Persuasion, influence, corruption, were inadequate: the example of dismissal failed to intimidate; the hope of preferment to allure. Neither the command obtained by the crown over the corporations, nor the division among Protestants excited by the toleration, had sufficiently weakened the opposition to the measures of the court. It was useless to attempt the execution of projects to subdue the resistance of the peers by new creations, till the other house was either gained or removed. The unyielding temper manifested by an assembly formerly so submissive, seems, at first sight, unaccountable. It must, however, be borne in mind, that the elections had taken place under the influence of the Church party; that the interest of the Church had defeated the ecclesiastical measures of the King in the two former sessions; and that the immense influence of the clergy over general opinion, now seconded by the zealous exertions of the friends of liberty, was little weakened by the servile ambition of a few of their number, who, being within the reach of preferment, and intensely acted upon by its attraction, too eagerly sought their own advancement to regard the dishonour of deserting their body. England was then fast approaching to that state in which an opinion is so widely spread, and the feelings arising from it are so ardent, that dissent is accounted infamous, and considered by many as unsafe. It is happy when such opinions (however inevitably alloyed by base

^a Van Citters, 28th May (7th June), 1686.

^b It is well known that Dr. Samuel Johnson was, when a child, touched for the scrofula by Queen Anne. The princes of the House of Brunswick relinquished the practice. Carte, the historian, was so blinded by his zeal for the House of Stuart as to assure the public that one Lovel, a native of Bristol, who had gone to Avignon to be touched by the son of James II. in 1716, was really cured by that prince. A small piece of gold was tied round the patient's neck, which explains the number of applications. The gold sometimes amounted to 3000*l.* a year. Louis XIV. touched 1600 patients on Easter Sunday, 1686. Barrington's Observations on Ancient Statutes, 108, 109. Lowell relapsed after Carte had seen him. General Biog. Dict. art. Carte.

ingredients, and productive of partial injustice) are not founded in delusion, but, on the whole, beneficial to the community. The mere influence of shame, of fear, of imitation, of sympathy, is, at such moments, sufficient to give to many men the appearance of an integrity and courage little to be hoped from their ordinary conduct.

The King had, early in the summer, ascertained the impossibility of obtaining the consent of a majority in the House of Commons to a repeal of the Test and Penal Laws, and to have shown a disposition to try a new Parliament.^a His more moderate counsellors,^b however, headed, as it appears, by the Earl of Sunderland,^c did not fail to represent to him the mischiefs and dangers of that irrevocable measure. It was, they said, a perilous experiment to dissolve the union of the Crown with the Church, and to convert into enemies an order who had hitherto supported unlimited authority, and inculcated unbounded submission. The submission of the Parliament had no bounds except the rights or interests of the Church. The expense of an increasing army would speedily require parliamentary aid; the possible event of the death of the King of Spain without issue might involve all Europe in war.^d For these purposes, and for every other that concerned the honour of the Crown, this loyal Parliament were ready to grant the most liberal supplies. Even in ecclesiastical matters, though they would not at once yield all, they would in time grant much. When the king had quieted

^a Van Citters, 13th June, 1687.

^b Barillon, 2 (12) June, 1687.

^c D'Adda, 28 Luglio, (7 Agosto), 1687. 12 (22) Ag. 1687.

^d The exact coincidence, in this respect, of Sunderland's public defence, nearly two years afterwards, with the nuncio's secret despatches of the moment, is worthy of consideration:—

“I hindered the dissolution several weeks, by telling the King that the parliament would do every thing he could desire but the taking off the tests; that another parliament would probably not repeal these laws; and, if they did, would do nothing else for the support of government. I said often, if the King of Spain died, his Majesty could not preserve the peace of Europe; that he might be sure of all the help and service he could wish from the present parliament, but if he dissolved it he must give up all thoughts of foreign affairs, for no other would ever assist him but on such terms as would ruin the monarchy.” Lord Sunderland's Letter, licensed 23d March, 1689.

“Dall' altra parte si poteva promettere S. M. del medesimo parlamento ogni assistenze maggiore de denaro si S. M. fosse obligato di entrare in una guerra straniera, ponderando il caso possibile della morte del Re di Spagna senza successione, questi e simili vantaggi non doverse attendere d'un nuovo parlamento composto di nonconformisti, nutrendo per li principi e sentimenti totalmente contrarii alla monarchia.

“D'ADDA.”

the alarm and irritation of the moment, they would, without difficulty, repeal all the laws commonly called penal. The King's dispensations, sanctioned by the decisions of the highest authority of the law, obviated the evil of the laws of disability; and it would be wiser for the Catholics to leave the rest to time and circumstances, than to provoke severe retaliation by the support of measures which the immense majority of the people dreaded as subversive of their religion and liberty. What hope of ample supply or steady support could the King entertain from a parliament of Non-conformists, the natural enemies of kingly power? What faith could the Catholics place in these sectaries, the most Protestant of Protestant communions, of whom the larger part looked on relief from persecution, when tendered by Catholic hands, with distrust and fear, and who believed that the friendship of the Church of Rome for them would last no longer than her inability to destroy them?

To this it was answered, that it was now too late to enquire whether a more wary policy might not have been at first more advisable; that the King could not stand where he was; that he would soon be compelled to assemble a parliament; and, that if he preserved the present, their first act would be to impeach the Judges, who had determined in favour of the dispensing power. To call them together, would be to abandon to their rage all the Catholics who had accepted office on the faith of the royal prerogative. If the Parliament were not to be assembled, they were at least useless; and their known disposition would, as long as they existed, keep up the spirit of audacious disaffection. If they were assembled, they would, even during the King's life, tear away the shield of the dispensing power, which, at all events, never would be stretched out to cover Catholics by the hand of the Protestant successor. All the power gained by the monarchy over corporations having been used in the last election by Protestant Tories, was now acting against the Crown. By extensive changes in the government of counties and corporations, a more favourable House of Commons, and if an entire abrogation should prove impracticable, a better compromise might be obtained.

Sunderland informed the nuncio that the King closed these discussions by a declaration that, having ascertained the determination of the present Parliament not to concur in his holy designs, and having weighed all the advantages of preserving it, he considered

them as far inferior to the great object, which was the advancement of the Catholic religion. Perhaps, indeed, this determination, thus apparently dictated by religious zeal, was conformable to the maxims of civil prudence, unless the King was prepared to renounce his encroachments, and content himself with that measure of toleration for his religion which the most tolerant states then dealt out to their dissenting subjects.

The next object was so to influence the elections as to obtain a more yielding majority in the House of Commons. At an early period Sunderland represented two hundred members of the late House "as necessarily dependent on the Crown:"^a probably not so much a sanguine hope as a political exaggeration, which, if it was believed, might realise itself. He was soon either undeceived or contradicted. The King desired all the members bound to him, either by interest or attachment, to come singly to private audiences in his closet,^b that he might ask their support to his measures; and the answers which he received were regarded by by-standers as equivalent to a general refusal.^c This practice, then called "*closeting*," was, it must be owned, a very unskilful species of canvass, where the dignity of the King left little room for more than a single question and answer; where the other parties were necessarily forewarned of the subject of the interview, and which must have soon become so generally known as to expose the more yielding part of them to the admonitions of their more courageous friends. It was easy for an eager monarch, on an occasion which allowed so little explanation, to mistake evasion, delay, and mere courtesy, for an assent to his proposal. But the new influence, and, indeed, power, gained by the Crown over the next elections seemed to be so great as to afford the strongest motives for a new Parliament. For in the six years which followed the first judgments by which the charters of corporations were declared to be forfeited, two hundred and forty-two new charters of incorporation had passed the seals to replace those which had been thus judicially annulled or voluntarily resigned.^d From this number, however, must be deducted those of the plantations on the continent and islands of Ame-

^a D'Adda, 10th Oct. 1686. "Contando sino a ducento voti necessariamente dependenti da S. M."—"Id. 7th Feb. 1687. Diceva (Sunderland) che nella camera bassa si faceva capitale di ducento voti securi e si travagliava ad aumentarli."

^b D'Adda, 24 Gen. 1687.

^c Van Citters, 24th Jan. 1687.

^d Lords' Journals, 20th Dec. 1689. Report of Lords' committees on *quo warrantos*. Evidence of Roger North, from 1682 to 1688.

rica;^a some new incorporations on grounds of general policy,^b and several subordinate corporations in cities and towns, though these last materially affected parliamentary elections. The House of Commons consisted of five hundred and five members, of which two hundred and forty-four were returned on rights of election altogether or in part corporate. This required only a hundred and twenty-two new charters. But in many cases more than one charter had been issued after extorted surrenders, to rivet them more firmly in their dependency; and if any were spared, it can only have been because they were considered as sufficiently enslaved, and some show of discrimination was considered as politic. In six years, therefore, it is evident, that by a few determinations of servile judges, the Crown had acquired the direct, uncontrolled, and perpetual nomination of nearly one half the members of the House of Commons. When we recollect the independent and ungovernable spirit manifested by that assembly in the last fifteen years of Charles II., we may be disposed to conclude that there is no other instance in history of so great a revolution effected in so short a time by the mere exercise of judicial authority. These charters, originally contrived so as to vest the utmost power in the Crown, might, in any instance where experience showed them to be inadequate, be rendered still more effectual for their purpose, as a power of changing them was expressly reserved in each.^c In order to facilitate the effective exercise of this power, commissioners were appointed to be regulators of corporations, with full power to remove and appoint freemen and corporate officers at their discretion. The Chancellor, the Lords Powis, Sunderland, Arundel, and Castlemain, with Sir Nicholas Butler and Father Petre, were the regulators of the first class, who superintended the whole operation.^d Sir N. Butler and Duncombe, a banker, regulated the corporation of London, from which they removed nineteen hundred freemen, and yet Jeffreys incurred a reprimand, from his impatient master, for want of vigour in changing the corporate bodies, and humbly promised to repair his fault; for “every Englishman who becomes rich,” said Barillon, “is more disposed to

^a Chalmers's *Annals of the Colonies*. London, 1780.

^b The College of Physicians, April, 1687, and the town of Bombay, January, 1688, both mentioned by Narc. Luttrell.

^c Roger Coke. *Reign of James II.* p. 21. *Parliamentum Pacificum*, 29, 30. Lond. 1688. The latter pamphlet boasts of these provisions. The Protestant Tories, says the writer, cannot question a power by which many of themselves were brought into the House.

^d *Lords' Journals*, ubi supra.

favour the popular party than the designs of the King.”^a The regulators were sent to every part of the country to make the necessary changes in corporations, and they were furnished with letters from the Secretary of State, recommending them to the aid of the lords lieutenants of all the counties in the kingdom.^b Circular letters were sent at a time when the election was supposed to be near, recommending to the lords lieutenants, and other men of influence, to procure the election of more than a hundred persons mentioned by name to be members of the next House of Commons. Among them were eighteen members for counties, and many for those towns which, as their rights of election were not corporate, were not yet subjected to the Crown by legal judgments.^c One was even addressed to the Chief Justice of the King’s Bench. In this list we find the unexpected name of John Somers, probably selected from a hope that his zeal for religious liberty might induce him to support a Government which professed so comprehensive a toleration. But it was quickly discovered that he was too wise to be ensnared, and the clerk of the Privy Council was six days after judiciously substituted in his stead.

It is due to James and his ministers to remark, that these letters are conceived in that official form which appears to indicate established practice, and the writer betrays no consciousness that such letters were unwarrantable or unusual. Most of these practices were, indeed, not only avowed, but somewhat ostentatiously displayed as proofs of the King’s confidence in the legitimacy and success of his measures. Official letters^d had also been sent to the lord lieutenants, directing them to obtain answers from the deputy lieutenants and justices of peace of their respective counties, to the questions whether, if any of them were chosen to serve in parliament, they would vote for the repeal of the penal laws and the test, and whether they would contribute to the election of other members of the like disposition; and also to ascertain what corporations in each county were well affected, what individuals had influence enough to be elected, and what Catholics and Dissenters were qualified to be deputy lieutenants or justices of the peace. Several of the lord lieutenants refused to obey an unconstitutional command: their refusal

^a Barillon, 27th August (8th Sept.), 1687.

^b Circular Letter, 21st July, 1688. State Paper Office.

^c Lord Sunderland’s Letters, Sept. 1688. State Paper Office.

^d 5th Oct. 1687. State Paper Office. Lord Lonsdale’s Memoirs. Van Citters, 7th Nov., whose account exactly corresponds with the original document.

had been foreseen; and one of the reasons for the circular letter was, that so specious a pretext as that of disobedience might thus be found for their removal from office. ^a

Sixteen lieutenancies,^b held by fourteen lieutenants, were immediately changed, of whom the majority were the principal noblemen of the kingdom, to whom the government of the most important provinces had, according to ancient usage, been entrusted. The removal of Lord Scarsdale^c from his lieutenancy of Derbyshire showed the disposition of the Princess Anne, and furnished some scope for political dexterity on her part and on that of her father. Lord Scarsdale holding an office in the household of Prince George, the Princess sent Lord Churchill to the King from herself and her husband, humbly desiring to know his Majesty's pleasure how they should deal with one of the Prince's servants, who had incurred the King's disfavour. The King, perceiving that it was intended to throw Scarsdale's removal from their household upon him, and extremely solicitous that it should appear to be his daughter's spontaneous act, and thus seem a proof of her hearty concurrence in his measures, declared his reluctance to prescribe to them in the appointment or dismissal of their officers. The Princess (for Prince George was a cipher), contented herself with this superficial show of respect, resolved that the sacrifice of Scarsdale, if ever made, should appear to be no more than the bare obedience of a subject and a daughter.

James was soon worsted in this conflict of address, and he was obliged to notify his pleasure that Scarsdale should be removed, in order to avoid the humiliation of seeing his daughter's court become the refuge of those whom he had displaced. ^d The vacant lieutenancies were bestowed on Catholics, with the exception of Mulgrave (who had promised to embrace the King's faith, but whose delays begot suspicions of his sincerity), and of Jeffreys, Sunderland, and Preston; who, though they continued to profess the Protestant religion, were no longer members of the Protestant party. Five colonels of cavalry, two of infantry, and four governors of fortresses, some of whom were also lord lieutenants, and most of them were of the same class of persons, were removed from their commands. Of thirty-nine new sheriffs, thirteen were said to be

^a Barillon, 28 Nov. (8 Dec.), 1687. "Il alloit faire cette tentative pour avoir un prétexte de les changer."

^b Id. 8 (18) Dec. 1687.

^c Id. 5 (15) Dec. 1687.

^d Barillon, 20 (30) August, 1687.

Roman Catholics. ^a Although the proportion of gentry among the Nonconformists was less, yet their numbers being much greater, it cannot be doubted that a considerable majority of these magistrates were such as the King thought likely to serve his designs. Even the most obedient and zealous lord lieutenants appear to have been generally unsuccessful: the Duke of Beaufort made an unfavourable report of the principality of Wales; and neither the vehemence of Jeffreys in Buckinghamshire, nor the extreme eagerness of the Earl of Rochester (where he was blamed for indiscretion and excess) ^b made any considerable impression on these counties. Lord Waldegrave, a Catholic, the King's son-in-law, found insurmountable obstacles in Somersetshire. ^c Lord Molyneux, also a Catholic, appointed to the lieutenancy of Lancashire, made an unfavourable report even of that county, then the secluded abode of an ancient Catholic gentry; and Dr. Leyburn, a Catholic bishop, who had visited every part of England in the discharge of his episcopal duty, found little to encourage the hopes and prospects of the King. The most general answer appears to have been, that, if chosen to serve in parliament, the individuals to whom the questions were put would vote according to their consciences, after hearing the reasons on both sides; that they could not promise to vote in a manner which their own judgment after discussion might condemn; that if they entered into so unbecoming an engagement, they might incur the displeasure of the House of Commons for betraying its privileges, and they would justly merit condemnation from all good men for disabling themselves to perform the duty of faithful subjects by the honest declaration of their judgment on those arduous affairs of the kingdom on which they were assembled to advise and aid the King. The court was incensed by these answers; but to cover their defeat, and make their resolution more known, it was formally notified in the London Gazette, ^d that "His Majesty, being resolved to maintain the liberty of conscience, and to use the utmost endeavours that it may pass into a law, and become an established security for after ages, has thought fit to review the lists of deputy lieutenants and justices of the peace, that those may con-

^a The names are marked in a handwriting apparently contemporary, on the margin of the list, in a copy of the London Gazette now before me. Van Citters (14th Nov.) makes the sheriffs almost all either Roman Catholics or Dissenters, probably an exaggeration. In his despatch of 16th December, he states the sheriffs to be thirteen Catholics, thirteen Dissenters, and thirteen submissive Churchmen.

^b Johnstone MSS., 8th December, 1687.

^c D'Adda, 2 (12) Dec. 1687.

^d London Gazette, 11th Dec. 1687.

tinue who are willing to contribute to so good and necessary a work, and such others added from whom he may reasonably expect the like concurrence."

It is very difficult to determine in what degree the patronage of the Crown, military, civil, and ecclesiastical, at that period, influenced parliamentary elections. The colonies then scarcely contributed to it.^a No offices in Scotland, and few in Ireland, were bestowed for English purposes. The revenue was small when compared with that of after times, even after due allowance is made for subsequent change in the value of money. But it was collected at such a needless expense as to become, from the mere ignorance and negligence of the government, a source of influence much more than proportioned to its amount. The Church was probably guarded for the moment, by the zeal and honour of its members, against the usual effects of royal patronage, and even the mitre lost much of its attractions, while the see of York was believed to be kept vacant for a Jesuit. A standing army of 30,000 men presented new means of provisions and objects of ambition to the young gentry, who then monopolized military appointments. The revenue, small as it now seems, had increased in proportion to the national wealth, more in the half century before than in any equal period since, and the army had within that time come into existence. It is not easy to decide whether the novelty and rapid increase of these means of bestowing gratification increased their power over the minds of men, or whether it was not necessarily more feeble until long experience had directed the eyes of the community toward the Crown as the source of income and advancement. It seems reasonable to suppose that it might at first produce more violent movements, and in the sequel more uniform support. All the offices in provincial administration were then more coveted than they are now. No modern legislation or practice had then withdrawn any part of that administration from lieutenants, deputy lieutenants, sheriffs, coroners, in whose hands it had been placed by the ancient laws. A justice of the peace exercised a power over his inferior never controlled by public opinion, and for the exercise of which he could hardly be said to be practically amenable to law. The influence of government has abated as the powers of

^a Chamberlayne's present State of England. 1674.

these offices have been contracted, or their exercise more jealously watched. The patronage of government cannot be justly estimated, unless it be compared with the advantage to be expected from other objects of pursuit. The professions called learned had then fewer stations and smaller incomes than at subsequent periods. In commerce, the disproportion was immense; there could hardly be said to be any manufactures: agriculture was unskilful, and we do not hear of opulent farmers. Perhaps the whole amount of income and advantage at the disposal of the Crown bore a larger proportion to that which might be earned in all the other pursuits which were raised above manual labour, than might at first sight be supposed. How far the proportion was less than at present it is hard to say; but patronage in the hands of James was the auxiliary of great legal power through lord lieutenants and of the direct nomination of the members for the corporate towns. The grossest species of corruption had been practised among members of the House of Commons;^a and the complaints which were at that time prevalent^b of the expense of elections, render it very probable that bribery was spreading among the electors. Expensive elections have, indeed, no other necessary effect than that of throwing elections into the hands of very wealthy candidates; but they afford too specious pretexts for the purchase of votes, not to be employed in eager contests, as a disguise of that practice.

The rival, though sometimes auxiliary, influence of great proprietors, seems to have been at that time, at least, as considerable as at any succeeding moment. The direct power of nomination must have been vested in many of them by the same state of suffrage and property which confer it on them at present. They were not rivalled in more popular elections by a monied interest. The power of the landholders over their tenants was not circumscribed, and in all county towns they were the only rich customers of tradesmen who had only begun to emerge from indigence and dependence. The majority of the landholders were Tories, and now adhered to the church. The minority, consisting of the most opulent and noble, were the friends of liberty, who received with open arms their unwonted allies.

From the naturally antagonist force of public opinion little was

^a Pension Parliament.

^b Resolution against treating.

probably dreaded by the Court. The Papal, the French, and the Dutch minister, as well as the King and Lord Sunderland, in their unreserved conferences with the first two ministers, seem to have pointed all their expectations and solitudes towards the uncertain conduct of powerful individuals. The body of the people could not read: one portion of them had little knowledge of the sentiments of another. No publication was tolerated, on a level with the information then possessed, even by the middle classes; and the only channel through which they could be acted upon was the pulpit, which the King had vainly though perfidiously endeavoured to shut up. Considerable impediments stood in the way of the King's direct power over elections. These consisted chiefly in the difficulty of finding candidates for parliament not altogether disreputable, and corporators whose fidelity might be relied on. The moderate Catholics reluctantly concurred in the precipitate measures of the Court. They were disqualified by long exclusion from business, for those offices to which their rank and fortune gave them a natural claim; and their whole number was so small, that they could contribute no adequate supply of fit persons for inferior stations.^a The numbers of the Nonconformists were, indeed, considerable; amounting, probably, to a sixteenth of the people, besides the compulsory and occasional Conformists, whom the declaration of indulgence had now encouraged to avow their real sentiments.^b Many of them had acquired wealth by trade, which under the Republic and the Protectorate began to be generally adopted as a liberal pursuit; but they were confined to the great towns, and chiefly to the Presbyterian persuasion, who were ill affected to the Court. Concerning the greater number, who were to fill corporations through the country, it was difficult to obtain accurate information, and hard to believe, that in the hour of contest, they could forget their enthusiastic animosity against the Church of Rome. As the project of introducing Catholics into the House of Commons by an exercise of the dispensing power had been abandoned, nothing could be expected

^a By Sir W. Petty's computation, which was the largest, the number of the Catholics in England and Wales, about the accession of James, was 32,000, and the survey of bishops in 1676, by order of Charles II., made it 27,000. Barlow (Bishop of Lincoln), *Genuine Remains*, 312. London, 1693.

"George Fox," said Sir W. Petty, "made five times more Quakers in forty-four years than the Pope, with all his greatness, has made Papists."

^a Barlow, *ubi supra*. About 250,000, when the population was little more than four millions.

from them but aid in elections ; and if one eighth of the members should be Nonconformists, a number so far surpassing their natural share, they would still bear a small proportion to the whole body of the House. These intractable difficulties, founded in the situation, habits, and opinions of men, over which measures of policy or legislation have no direct or sudden power, early suggested to the more wary of the King's counsellors the propriety of attempting some compromise, by which he might immediately gain more advantage and security for the Catholics than could have been obtained from the Episcopalian Parliament, and open the way for further advances in a more favourable season. Shortly after the dissolution, Lord Sunderland communicated to the nuncio his opinions on the various expedients by which the jealousies of the Nonconformists might be satisfied.^a "As we have wounded the Anglican party," said he, "we must destroy it, and use every means to strengthen as well as conciliate the other, that the whole nation may not be alienated, and that the army may not discover the dangerous secret of the exclusive reliance of the Government upon its fidelity. Among the Nonconformists were three opinions relating to the Catholics : that of those who would repeal all the penal laws against religious worship, but maintain the disabilities for office and parliament ; that of those who would admit the Catholics to office, but continue their exclusion from both Houses of Parliament ; and that of a still more indulgent party, who would consent to remove the recent exclusion of the Catholic peers, trusting to the oath of supremacy in the reign of Elizabeth, as a legal, though it had not proved in practice a constant bar, against their entrance into the House of Commons ; to say nothing of a fourth project, entertained by zealous Catholics and thorough courtiers, that Catholic peers and commoners should claim their seats in both Houses by virtue of royal dispensations, which would relieve them from the oaths and declarations against their religion required by law ; an attempt which the King himself had felt to be too hazardous ; likely to excite a general commotion on the first day of the session, to produce an immediate rupture with the new Parliament, and to forfeit all the advantages which had been already gained by a determination of both Houses against the validity of the dispensations." He added, that "he had not

^a D'Adda, 28 Lugl. (7 Agosto), 1687.

hitherto conferred on these weighty matters with any but the King ; that he wished the nuncio to consider them, and was desirous to govern his own conduct by that prelate's decision." At the same time he gave D'Adda to understand, that he was inclined to some of the above conciliatory expedients, observing, " that it was better to go on step by step, than obstinately to aim at all with the risk of gaining nothing ; " and hinting, that this pertinacity was peculiarly dangerous, where all depended on the life of his Majesty. The purpose of Sunderland was to insinuate his own opinions into the mind of the nuncio, who was the person most likely to reconcile the King and his priests to partial advantages. But a prelate of the Roman court, however inferior to Sunderland in other respects, was more than his match in the art of evading the responsibility which attends advice in perilous conjunctures. With many commendations of Sunderland's zeal, D'Adda professed " his incapacity of judging in a case which involved the opinions and interests of so many individuals and classes ; but he declared, that the fervent prayers of his Holiness, and his own feeble supplications would be offered to God, for light and guidance to his Majesty and his ministers in the prosecution of their wise and pious designs."

William Penn proposed a plan different from any of the *temperaments* mentioned above; which consisted in the exclusion of Catholics from the House of Commons, and the division of all the public offices into three equal parts, one of which should belong to the church, another should be open to the Nonconformists, and a third to the Catholics,^a an extremely unequal distribution, if it implied the exclusion of the members of the church from two thirds of the stations in the public service; and not very moderate, if it should be understood only as providing against the admission of the dissidents to more than two thirds of these offices. Eligibility to one third would have been a more equitable proposition, and perhaps better than any but that which alone is perfectly reasonable; that the capacity of being appointed to office should be altogether independent of religious opinion.

An equivalent for the tests was held out at the same time, which had a very specious and alluring appearance. It was proposed that an act for the establishment of religious liberty should be

^a Johnstone MSS. 13th January, 1688.

passed; that all men should be sworn to its observance; that it should be made a part of the coronation oath, and rank among the fundamental laws, as the *Magna Charta* of Conscience, and *that any attempt to repeal it should be declared to be a capital crime.*^a

The principal objections to all these mitigated or attractive proposals arose from distrust in the King's intention. It did not depend on the conditions offered, and was as fatal to moderate compromise as to undistinguishing surrender. The nation were now in a temper to consider every concession made to the King as an advantage gained by an enemy, which mortified their pride, as well as lessened their safety. They regarded negotiation as an expedient of their adversaries to circumvent, disunite, and dishearten them.

The state of the House of Lords was a very formidable obstacle. Two lists of the probable votes in that assembly on the Test and Penal laws were sent to Holland, and one to France, which are still extant.^b These vary in some respects from each other, according to the information of the writers, and probably according to the fluctuating disposition of some peers.

The greatest division adverse to the Court which they present, is ninety-two against the repeal of the penal and disabling laws to thirty-five for it, besides twenty whose votes are called doubtful, and twenty-three disabled as Catholics. The least division is eighty-six to thirty-three, besides ten doubtful and twenty-one Catholic. The majority on the highest statement would, therefore, be fifty-seven, and that on the lowest fifty-three; if we suppose the voters to continue steady, and the proportions not to be materially changed by death. Singular as it may seem, Rochester, the leader of the church party, is represented in all the lists as being for the repeal. From this agreement of the lists, and from his officious zeal as Lord Lieutenant of Hertfordshire, it cannot be doubted that he had promised his vote to the King; but it is hard to say whether his promise was sincere, and not easy to determine whether treachery to his party or insincerity to his old master would be most deserving of blame. He cannot be acquitted of a

^a William Penn. "Good advice." "Parliamentum Pacificum."

^b The reports sent to Holland were communicated to me by the Duke of Portland. One of them purports to be drawn by Lord Willoughby. That sent by Barillon is from the *Dépôt des Affaires Etrangères*.

grave offence either against political or personal morality. His brother Clarendon, a man of less understanding and courage, is numbered in one list as doubtful, and represented by another as a supporter of the Court. Lord Churchill is stated to be for the repeal; probably from the confidence of the writers that gratitude would in him prevail over every other motive; for it appears that on this subject he had the merit of not having dissembled his sentiments to his royal benefactor.^a Lord Godolphin, engaged rather in ordinary business than in political councils, was numbered in the ranks of official supporters. As Lord Dartmouth, and Lord Preston, and Lord Feversham never fluctuated on religion, they deserve the credit of being rather blinded by personal attachment than tempted by interest or ambition in their support of the repeal.^b Howard of Escrick and Grey de Werk, who had saved their own lives by contributing to take away those of their friends, appear in the minority as slaves of the Court. Of the Bishops only four had gone so far as to be counted in all the lists as voters for the King.^c Wood of Lichfield appears to be with the four in one list, and doubtful in another. The compliancy of Sprat had been such as to place him perhaps unjustly in the like situation. Old Barlow of Lincoln was thought doubtful. The other aged prelate, Crofts of Hereford, though he deemed himself bound to obey the King as a Bishop, claimed the exercise of his own judgment as a Lord of Parliament. Sunderland, who is marked as a disabled Catholic in one of the lists, and as a doubtful voter in another, appears to have obtained the Royal consent to a delay of his public profession of the Catholic religion, that he might retain his ability to serve it by his vote in Parliament.^d Mulgrave was probably in the same predicament.

^a 1 Coxe, Marlb. 23—29., where the authorities are collected, to which may be added the testimony of Johnstone:—"Lord Churchill swears he will not do what the King requires from him."—Johnstone's Letters, 12th Jan. 1688.

^b Johnstone, however, who knew them, did not ascribe their conduct to frailties so generous: "Lord Feversham and Lord Dartmouth are desirous of acting honourably. But the first is mean-spirited, and the second has an empty purse; yet aims at living grandly. Lord Preston desires to be an honest man; but if he were not your friend and my relation, I should say that he is both Feversham and Dartmouth." Johnst. Letters, 12th Jan. 1688.

^c Durham (Crew), Oxford (Parker), Chester (Cartwright), and St. David's (Watson).

^d "Ministers and others about the King, who have given him grounds to expect that they will turn papists, say, that if they change before the parliament, they cannot be useful to H. M. in parliament, as the test will exclude them." Johnstone, 8th Dec. 1687.

If such a majority were to continue immoveable, the counsels of the King must have been desperate, or he must have had recourse to open force. But this perseverance was improbable. Among the doubtful there might have been some who concealed a determined resolution under the exterior of silence or of hesitation. Such, though under a somewhat different disguise, was the Marquis of Winchester, who indulged and magnified the eccentricities of an extravagant character; counterfeited, or rather affected a disordered mind, as a security in dangerous times, like the elder Brutus in the legendary history of Rome; and travelling through England in the summer of 1687, with a retinue of four coaches and a hundred horsemen, slept during the day, gave splendid entertainments in the night; and by torch-light, or early dawn, pursued the sports of hunting and hawking.^a But the majority of the doubtful must have been persons who assumed that character to enhance their price, or who lay in wait for the turns of fortune, or watched for the safe moment of somewhat anticipating her determination. Of such men the powerful never despair. The example of a very few would be soon followed by the rest, and if they or many of them were gained, the accession of strength could not fail to affect those timid and mercenary men who are to be found in all bodies, and whose long adherence to the opposition was already wonderful. But the subtle genius of Lord Sunderland, not content with ordinary means of seduction and with the natural progress of desertion, had long meditated an expedient for quickening the latter and for supplying in some measure the place of both. He early communicated to the nuncio a plan for subduing the obstinacy of the Upper House by the creation of the requisite number of new peers^b devoted to his Majesty's measures. He proposed to call up by writ the elder sons of friendly lords, which would increase the present strength, without the incumbrance of new peerages, whose future holders might be independent. Some of the Irish,^c and probably of the Scotch nobility, whose rank made their elevation to the English peerage specious, and whose fortunes disposed them to dependency on royal bounty, attracted his attention, as they did that of those ministers who carried his project into execution twenty-five years afterwards. He was so enamoured of this plan, that in a numerous

^a Reresby, 247.

^b D'Adda, 1 (11) Ottob. 1686.

^c Johns. Lett. 27th Feb. 1688.

company, where the resistance of the Upper House was said to be formidable, he cried out to Lord Churchill, "O silly! why, your troop of guards shall be called to the House of Lords!"^a On another occasion (if it be not a different version of the same anecdote) he declared, that sooner than not gain a majority in the House of Lords, he would make all Lord Feversham's troop peers.^b The power of the Crown was in this case unquestionable. The constitutional purpose for which the prerogative of creating peers exists, is, indeed, either to reward public service, or to give dignity to important offices, or to add ability and knowledge to a part of the legislature, or to repair the injuries of time, by the addition of new wealth to an aristocracy which may have decayed. But no law limits its exercise.^c By the bold exercise of the prerogative of creating peers, and of the then equally undisputed right of granting to towns the privilege of sending members to parliament, it is evident that the King possessed the fullest means of subverting the constitution by law. The obstacles to the establishment of despotism consisted in his own irresolution or unskillfulness, in the difficulty of finding a sufficient number of trustworthy agents, and in such a determined hostility of the body of the people as led sagacious observers to forbode an armed resistance.^d The firmness of the Lords has been ascribed to their fears of a resumption of the church property confiscated at the Reformation. But at the distance of a century and a half, and after the dispersion of much of that property by successive sales, such fears were too groundless to have had a considerable influence. But though they ceased to be distinctly felt, and to act separately, it cannot be doubted that the remains of apprehensions once so strong, still contributed to fortify that dread and horror

^a Burnet, iii. 249. Oxford edition; Lord Dartmouth's note.

^b Halifax MSS. The turn of expression would seem to indicate different conversations. At all events, Halifax affords a strong corroboration.

^c It is, perhaps, not easy to devise such a limitation, unless it was provided that no newly created peer should vote till a certain period after his creation, which, in cases of signal service, would be ungracious, and in those of official dignity inconvenient.

^d "On suivra ici le projet d'avoir un parlement tant qu'il ne paroîtra pas impraticable, mais s'il ne réussit pas, le Roi d'Angleterre prétendra faire par son autorité ce qu'il n'aura pas obtenu par la voie d'un parlement. C'est en ce cas là qu'il aura besoin de ses amis au dedans et au dehors, et il recevra alors des oppositions qui approcheront fort d'une rébellion ouverte. On ne doit pas douter qu'elle ne soit soutenue par M. le Prince d'Orange, et que beaucoup de gens qui paroissent attachés au Roi d'Angleterre ne lui manquent au besoin; cette épreuve sera fort périlleuse." Barillon, Windsor, 29 Sept. (9 Oct.), 1687.

of popery, which were an hereditary point of honour among the great families aggrandized and enriched under the Tudors. The edge of religious animosity among the people was sharpened by the controversy then revived between the divines of the two churches. A dispute about the truth of their religion was insensibly blended with contests concerning the safety of the Establishment, and the extent of toleration infused into it that hatred which is often fiercer, and always more irreconcilable against those who oppose the opinions which we hold sacred than against the opponents of our most important interests. The Protestant establishment and the cause of liberty owed much, it must be owned, to this dangerous and odious auxiliary. The fear, the jealousy, the indignation of the people were more legitimately excited against Roman Catholic government by the barbarous persecution of the Protestants in France, and by the unprovoked invasion of the vallies of Piedmont; both acts of a monarch of whom their own sovereign was then believed to be, as he is now known to have been, the creature.

The King had, in the year 1686, tried the efficacy of a progress through a part of the kingdom, to conciliate the nobility by personal intercourse, and to gratify the people by a royal visit to their remote abodes. It also afforded an opportunity of rewarding compliance by smiles, and of marking the contumacious. With these views he had meditated a journey to Scotland, and a coronation in that kingdom. He now confined himself to an excursion through some southern and western counties, which he began at Portsmouth, proceeding through Bath, at which place the Queen remained during his journey to Chester, where he had that important interview with Tyrconnel, of which we have already spoken. He was easily led to consider the courtesies of the nobility due to his station, and the acclamations of the multitude naturally excited by his presence, as symptoms of an inflexible attachment to his person, and of a general acquiescence in his designs. These appearances, however, were not considered as of serious importance, either by the Dutch minister, who dreaded the King's popularity, or by the French ambassador, who desired its increase, or by the papal nuncio, who was so friendly to the ecclesiastical policy of the court, and so adverse to its foreign connexion as to render him in some measure an impartial observer. The journey was attended by no consequences more important than a few addresses extorted

from the Dissenters by the importunity of personal canvass, and the unseemly explosion of royal anger at Oxford against the fellows of Magdalen College.^a Scarcely any of the King's measures seem to have had less effect on general opinion, and appear less likely to influence the election for which he was preparing.

But it was speedily followed by an occurrence which strongly excited the hopes and fears of the public, and at length drove the opponents of the King to decisive resolutions. Soon after the return of the Court to Whitehall,^b it began to be whispered that the Queen was pregnant. This event in the case of a young princess, and of a husband still in the vigour of life, might seem too natural to have excited surprise. But five years had elapsed since her last childbirth, and out of eleven children who were born to James by both his wives, only two had outlived the years of infancy. Of these the Princess of Orange was childless; and the Princess Anne, who had six children, lost five within the first year of their lives, while the survivor only reached the age of eleven. Such an apparent peculiarity of constitution, already transmitted from parent to child, seemed to the credulous passions of the majority, unacquainted as they were with the latitude and varieties of nature, to be a sufficient security against such an accession to the royal progeny as should disturb the order of succession to the crown. The rumour of the Queen's condition suddenly dispelled this security. The Catholics had long and fervently prayed for the birth of a child, who being educated in their communion, might prolong the blessings which they were beginning to enjoy. As devotion, like other warm emotions, is apt to convert wishes into hopes, they betrayed a confidence in the efficacy of their prayers, which early excited suspicions among their opponents that less pure means might be employed for the attainment of the object. Though the whole importance of the pregnancy depended upon contingencies so utterly beyond the reach of human foresight as the sex of the child, the passions of both parties were too much excited to

^a "The King has returned from his progress so far as Oxford, on his way to the Bath, and we do not hear that his observations of his journey can give him any great encouragement. Besides the considerations of conscience and the public interest, it is grown into a point of honour universally received by the nation not to change their opinions, which will make all attempts to the contrary ineffectual." Halifax to Prin. of Orange, 1st Sept. 1687. Dalrymple, App. to Book V.

^b James rejoined the Queen at Bath on the 6th of September. On the 16th he returned to Windsor, where the Queen came on the 6th of October. On the 11th of that month they went to Whitehall. Lond. Gaz.

calculate probabilities, and the fears of the Protestants, as well as the hopes of the Catholics, anticipated the birth of a male heir. The animosity of the Protestants imputed to the Roman Catholic religion, that unscrupulous use of any means for the attainment of an object earnestly desired, which might more justly be ascribed to inflamed zeal for any religious system, or with still greater reason to all those ardent passions of human nature, which, when shared by multitudes, are released from the restraints of fear or shame. In the latter end of November a rumour that the Queen had been pregnant for two months became generally prevalent;^a and early in December, surmises of imposture began to circulate at court.^b Time did not produce its usual effect of removing uncertainty, for, in the middle of the same month, the Queen's symptoms were represented by physicians as still ambiguous, in letters, which the careful balance of facts on both sides, and the cautious abstinence from a decisive opinion, seem to exempt from the suspicion of bad faith.^c On the 23d of December, a general thanksgiving for the hope of increasing the royal family was ordered; but on the 15th of the next month, when that thanksgiving was observed in London, Lord Clarendon remarked with wonder, "that not above two or three in the Church brought the form of prayer with them; and that it was strange to see how the Queen's pregnancy was every where ridiculed, as if scarce any body believed it to be true."^d The nuncio early expressed his satisfaction at the pregnancy, as likely to contribute "to the re-establishment of the Catholic religion in these kingdoms;"^e and in the following month, he pronounced to her Majesty the solemn benediction of the sovereign pontiff, on a pregnancy so auspicious to the Church.^f Of the other ministers most interested in this event, Barillon, a veteran diplomatist, too cool and experienced to be deluded by his wishes, informed his master, "that the pregnancy was not believed to be true in London; and that in the country, those who spread the intelligence were laughed at:"^g while the republican minister, Van Citters, coldly communicated the report, with some of the grounds of it, to the States-General, without hazarding an opinion on a matter so delicate.

^a Narc. Luttrell, Diary, 28th Nov. 1687.

^b Johnstone, 8th Dec. O. S. 1687.

^c Johnstone, 16th Dec. 1687, containing a statement of the symptoms by Sir Charles Scarborough, and another physician whose name I have been unable to decipher.

^d Diary of H. Earl of Clarendon, 15th Jan. 1688.

^e D'Adda, 22 Nov. (2 Dec.), 1687.

^f Id. 9 Feb. (20 Febraro), 1688.

^g Barillon, 1 (11) Dec. 1687.

The Princess Anne, in confidential letters to her sister at the Hague, when she had no motive to dissemble, signified her unbelief, which continued even after the birth of the child,^a and was neither subdued by her father's solemn declarations, nor by the testimony which he produced.^b On the whole, the suspicion, though groundless and cruel, was too general to be dishonest; there is no evidence that the rumour originated in the contrivance of any individuals; it is for that reason more just, as well as perhaps in itself more probable, to conclude that it arose spontaneously in the minds of many, influenced by the circumstances and prejudices of the time, and the most instructive inference to be deduced from it is, that the universal prevalence of such epidemic opinions often affords no more than a very slight presumption of their truth, but that they ought to be considered as sufficient to exculpate even men of understanding, who are subject to the action of the contagion, from that imputation of insincerity which, by their professed belief in rumours, without proof and against probability, they could hardly fail to incur in times more favourable to calm judgment. The currency of the like rumours, on a similar occasion, five years before, favours the opinion that they arose from the obstinate prejudices of people rather than from the invention of designing politicians.^c The imprudent confidence of the Catholics materially contributed to strengthen the suspicions of their opponents. When the King and his friends ascribed the pregnancy to his own late prayers at St. Winifred's^d well, or to the vows while living, and intercession since the death of the deceased Duchess of Modena, the Protestants suspected that effectual measures would be taken to prevent the interposition of Heaven from being of no avail to the Catholic cause. Their jealous apprehensions were countenanced by the expectations of the Catholics that the child was to prove a

^a March 14th and 20th, 1688. Dalrymple, App. 300. "Her being so positive it will be a son, and the principles of that religion being such that they will stick at nothing, be it ever so wicked, if it will promote their interest, give some cause to fear that there is foul play intended." On the 18th of June, 1688, she says, "Except they give very plain demonstration, which seems almost impossible now, I shall ever be of the number of unbelievers."

Even the candid and loyal Evelyn very intelligibly intimates his suspicions. (Diary, 10th and 17th June, 1688.)

^b Clarendon Diary, 31st Oct., 1688.

^c "If it had pleased God to have given his Highness the blessing of a son, as it proved a daughter, you were prepared to make a Perkin of him." L'Estrange, *Observer*, 23d August, 1682.

^d Life of James II., ii. 129.

son, which was indicated in the proclamation for thanksgiving,^a and unreservedly avowed in private conversation. As straws show the direction of the wind, the writings of the lowest scribblers may sometimes indicate the temper of a party, and one such writing, preserved by chance, may probably be a sample of the multitudes which have perished. Mrs. Behn, a loose and paltry poetastress of that age, was bold enough in the title page of what she calls "A Poem to their Majesties," to add, "on the hopes of all loyal persons for a Prince of Wales," and ventures in her miserable verses already to hail the child of unknown sex, as "Royal Boy."^b The lampooners of the opposite party, in verses equally contemptible, showered down derision on the Romish imposture,^c and pointed the general abhorrence and alarm towards the new Perkin Warbeck whom the Jesuits were preparing to be the instrument of their designs.

While these hopes and fears agitated the multitude of both parties, the ultimate objects of the King became gradually more definite, while he at the same time deliberated, or perhaps, rather decided, about the choice of his means. His open policy assumed a more decisive tone; Castlemaine, who in his embassy had acted with the most ostentatious defiance of the laws, and Petre, the most obnoxious clergyman of the Church of Rome, were sworn of the privy council.^d The latter was even promoted to an ecclesiastical office in the household of a prince, who still exercised all the powers of the supreme head of a Protestant Church. Corker, an English Benedictine, the superior of a monastery of that order in London, had an audience of the King in his ecclesiastical habits, as envoy from the Elector of Cologne,^e doubtless by a secret understanding between James and that prince; an act, which Louis XIV. himself condemned as unexampled in Catholic countries, and likely to provoke heretics, whose prejudices ought not to be wantonly irritated.^f As the animosity of the people towards

^a The object of the thanksgiving was indicated more plainly in the Catholic form of prayer on that occasion:—"Concede propitius ut famula tua Regina nostra Maria partu felici prolem edat tibi fideliter servituram." *Orationes addendæ ad missam in Regno Anglico.* Van. Att. 28th January, 1688.

^b London, 1688.

^c *State Poems*, vol. iii. and iv.; a collection at once the most indecent and unpoetical probably extant in any language.

^d Lond. Gaz., 25th Sept. 1687, and 11th Nov. 1687; in the last Petre is styled "Clerk of the Closet."

^e Narc. Luttrell, January, 1688.

^f *Le Roi à Barillon*, 16 (26) Fév. 1688.

the Catholic religion increased, the designs of James for its re-establishment became bolder and more open. The monastic orders, clad in garments, long, strange, and now alarming to the people, filled the streets of London, and the King prematurely exulted that his capital had the appearance of a Catholic city,^a little aware of the indignation with which that obnoxious appearance inspired the body of his Protestant subjects. He must now have felt that his contests with the Church of England had reached that point in which neither party would submit without a total defeat. The language used or acquiesced in by him in the most confidential intercourse, does not leave his intention to be gathered by inference. For though the words, "to establish the Catholic religion," may denote no more than to secure its free exercise, another expression is employed on this subject for a long time, and by different persons, in correspondence with him, which has no equivocal sense, and allows no such limitation. On the 12th of May, 1687,^b Barillon assured him, that the most Christian King "had nothing so much at heart as to see the success of his exertions to re-establish the Catholic religion." Far from limiting this important term, James adopted it in its full extent, answering, "You see that I omit nothing in my power." Not content with thus accepting the congratulation in its utmost latitude, James continued, "I hope the King your master will aid me; and that we shall, in concert, do great things for religion:" proclaiming his reliance for aid in his designs on a monarch who, at that moment, supported the religious establishment by persecution. In a few months afterwards, when imitating another part of the policy of Louis XIV., he had established a fund for rewarding converts to his religion, he solicited pecuniary aid from the Pope for that very ambiguous purpose. The nuncio, in answer, declared the sorrow of his Holiness, at being disabled by the impoverished state of his treasury to contribute money, notwithstanding "his paternal zeal for the promoting, in every way, the re-establishment of the Catholic religion in these kingdoms;"^c as he had shortly before expressed his hope, that the Queen's pregnancy would ensure "the re-establishment of the true religion in these kingdoms:"^d another term was in familiar

^a D'Adda, 28 Feb. (9 Marzo), 1688.

^b Barillon au Roi, 2 (12) Mai, 1687.

^c D'Adda, 23 Dec. 1687. (2 Genn. 1688) "Il ristabilimento della religione Cattolica in questi Regni."

^d D'Adda, 22 Nov. (2 Dec.), 1687. "Il ristabilimento della vera religione in questi Regni."

use at court for the final object of the royal pursuit. It was called "the great work;" a phrase borrowed from the supposed transmutation of metals by the alchemists, which naturally signified a total change, and which never could have been applied to mere toleration by those who were in system, if not in practice, the most intolerant men of an intolerant age. The King told the nuncio, that Holland was the main obstacle to the establishment of the Catholic religion in these kingdoms; and D'Albyville, minister at the Hague, declared, that without humbling the pride of that republic, there could be no hope of the success "of the great^a work." Two years afterwards, James, after reviewing his whole policy and its consequences, deliberately and decisively avows the extent of his own designs.^b "Our subjects opposed our government, from the fear that we should introduce the orthodox faith, which we were, indeed, labouring to accomplish when the storm began, and which we have done in our kingdom of Ireland." Mary of Este, during the absence of her husband in Ireland, exhorts the papal minister, "to earn the glorious title of restorer of the faith in the British kingdoms;^c and declares, that she "hopes much from his administration for the re-establishment both of religion and the royal family."^d Finally, the term "re-establish," which can refer to no time subsequent to the accession of Elizabeth, had so much become the appropriate term, that Louis XIV. assured the Pope, of his determination to aid "the King of England, and to re-establish the Catholic religion in that island."^e None of the most discerning friends or opponents of the King seem at this time to have doubted that he meditated no less than to transfer to his own religion the privileges of an established church. Gourville, one of the most sagacious men of his age, being asked by the Duchess of Tyrconnel, when about to make a journey to London, what she should say to the King if he enquired about the opinion of his old friend Gourville, of his measures for the "re-establishment" of the Catholic religion in England, begged her to answer, "If I were pope, I should have excommunicated him for exposing all the English Catholics to the risk of being hanged. I have no doubt, that what he sees done in France is his model, but the circumstances

^a D'Adda, 12 (22) Agosto, 1687.

^b James II. to Cardinal Ottoboni. Dublin, 15th Feb. 1690. Papal MSS.

^c Mary to the same, St. Germain, 4th Dec. 1689. Papal MSS.

^d The same to the same 5 (15) Dec. 1689.

^e Louis XIV. to the Pope, 7 (17) Fév. 1689.

are very different. In my opinion, he ought to be content with favouring the Catholics on every occasion, in order to augment their number, and he should leave to his successors the care of gradually subjecting England altogether to the authority of the pope."^a Bossuet, the most learned, vigorous, and eloquent of controversialists, in the great work on the variations of the Protestant churches, which he published at this critical time, ventured to foretell, that the pious efforts of James would speedily be rewarded by the reconciliation of the British islands with the universal church, and their filial submission to the apostolic see.^b

If Gourville considered James an injudicious imitator of Louis XIV., it is easy to imagine what was thought on the subject in England, at a time when one of the mildest, not to say most courtly, writers, in the quietness and familiarity of his private diary, speaks of "the persecution raging in France," and so far forgets his own temper, and the style suitable to such writings, as to call Louis "the French tyrant."^c Lord Halifax, Lord Nottingham, and Lord Danby, the three most important opponents of the King's measures, disagreeing as they did very considerably in opinion and character, evidently agreed in their apprehension of the extent of his designs.^d They advert to them as too familiar to themselves and their correspondent to require proof, or even development; they speak of them as being far more extensive than the purposes avowed, and they apply terms to them which might be reasonable in the present times, when many are willing to grant and to be contented with religious liberty, but which are entirely foreign to the conceptions of an age when toleration (a term then synonymous with connivance) was the ultimate object of no great party in religion, but was sometimes sought by dissenters as a step towards establishment, and sometimes yielded by the followers of an established church under the pressure of a stern necessity. Some even of

^a Mémoires de Gourville, ii. 254. Paris, 1724.

^b Histoires des Variations des Eglises Protestantes, lib. 7.

^c Evelyn, Diary, 3d of Sept. 1687. 23d of Feb. 1688.

^d Lord Halifax to the Prince of Orange, 7th Dec. 1686. The same to the same, 18th Jan. 1687. "Though there appears *the utmost vigour to pursue the object which has been so long laid*, there seemeth to be no less firmness in the nation and aversion to change."—"Every day will give more light to what is intended; though it is already no more a mystery." Same to the same, 31st May, 1687.

Lord Nottingham to the Prince of Orange, 2d Sept. 1687:—"For though *the end at which they aim is very plain and visible*, the methods of arriving at that end have been variable and *uncertain*." Lord Danby, 27th March, 1688. Dalrymple, App. book v.

those who, having been gained over by the King, were most interested in maintaining his sincerity, were compelled at length to yield to the general conviction. Colonel Titus, a veteran politician, who had been persuaded to concur in the repeal of the penal laws (a measure agreeable to his general principles), declared "that he would have no more to do with him: that his object was only the repeal of the penal laws; that their design is to bring in their religion right or wrong, and to model the army in order to effect their purpose; and, if that is not sufficient, to obtain assistance from France."^a The converts to the religious or political party of the King were few and discreditable. Lord Lorn, whose predecessors and successors were the firmest supporters of the religion and liberty of his country, is said to have been reduced by the confiscation of his patrimony^b to the sad necessity of professing a religion which he must have regarded with feelings more hostile than those of mere unbelief. Lord Salisbury, whose father had been engaged with Russell and Sydney in the consultation called the Ryehouse Plot, and whose grandfather sat in the House of Commons after the abolition of monarchy and peerage, embraced the Catholic religion, and adhered to it during his life. The offices of attorney and solicitor-general, which acquire a fatal importance in this country under governments hostile to liberty, were newly filled. Sawyer, who had been engaged in the worst prosecutions of the preceding ten years, began to tremble for his wealth, and retired from a post of dishonourable danger. He was succeeded by Sir Thomas Powis, a lawyer of no known opinions or connexions in politics, who acted on the unprincipled maxim, that, having had too little concern for his country to show any preference to public men or measures, he might as lawfully accept office under any government, as undertake the defence of any client. Sir W. Williams, the confidential adviser of Lord Russell, on whom a fine of ten thousand pounds had been inflicted, for a publication authorised by him as Speaker of the House of Commons, though solemnly pledged both to men and measures in the face of the public, now accepted the office of solicitor-general, without the sorry excuse of any of those maxims of professional ethics by which a powerful body countenance each other in their disregard of public duty. A project was in agitation for depriving the Bishop of London by a

^a Johnstone, 6 (16) February, 1688.

^b Narc. Lutt. 1st April, 1688, "arrested for 3000*l.*, declares himself a Catholic."

sentence of the ecclesiastical commissioners for perseverance in his contumacy; ^a but Cartwright, of Chester, his intended successor, having, in one of his drunken moments, declared the Chancellor and Lord Sunderland to be scoundrels who would betray the King, and having first denied it by his sacred order, but being at last reduced to beg pardon for it in tears, ^b the plan of raising him to the see of London was abandoned. Crew, Bishop of Durham, was expected to become a Catholic, and Parker of Oxford, the only prelate whose talents and learning, seconded by a disregard of danger and disgrace, qualified him for breaking the spirit of the clergy of the capital, though he had supported the Catholic party during his life, refused to conform to their religion on his death-bed, ^c leaving it doubtful, by his habitual alienation from religion and honour, to the lingering remains or the faint revival of which of these principles the unwonted delicacy of his dying moments may be most probably ascribed.

CHAPTER VIII.

Remarkable Quiet.—Its peculiar Causes.—Coalition of Nottingham and Halifax.—Fluctuating Counsels of the Court.—“Parliamentum Pacificum.”—Bill for Liberty of Conscience.—Conduct of Sunderland.—Jesuits.

ENGLAND perhaps never exhibited an external appearance of more undisturbed and profound tranquillity than in the momentous seven months which elapsed from the end of autumn to the beginning of summer. Not a speck in the heavens seemed to the

^a Johnstone, 8th Dec. 1687. It may be proper to observe, that Johnstone's connexions afforded him considerable means of information. Mrs. Dawson, an attendant of the Queen, was an intimate friend of his sister, Mrs. Baillie, of Jer-viswood. Another of his sisters was the wife of General Drummond, who was deeply engaged in the persecution of the Scotch Presbyterians, and the Earl of Melfort's son had married his niece. His letters were to or for Burnet, his cousin, and to be read by the Prince of Orange, to both of whom he had the strongest inducements to give accurate information. He had frequent and confidential intercourse with Halifax, Tillotson, and Stillingfleet.

^b Johnstone, 27th Feb. 1688. Narc. Luttrell, 11th Feb. 1688.

^c Evelyn, 23d March, 1688.

common eye to forebode a storm. None of the riots now occurred which were the forerunners of the civil war under Charles I. There were none of those numerous assemblies of the people which affright by their force, when they do not disturb by their violence, and are sometimes as terrific in disciplined inaction, as in tumultuous outrage. Even the ordinary marks of national disapprobation, which prepare and announce a legal resistance to power, were wanting. There is no trace of public meetings in counties or great towns where such demonstrations of public opinion could have been made. The current of flattering addresses continued to flow towards the throne, uninterrupted by a single warning remonstrance of a more independent spirit, or even of a mere decent servility. It does not appear that in pulpits, where alone the people could be freely addressed, political topics were discussed, though it must be acknowledged that the controversial sermons against the opinions of the Church of Rome, which then abounded, proved in effect the most formidable obstacle to the progress of her ambition.

Various considerations will serve to lessen our wonder at this singular state of silence and inactivity. Though it would be idle to speak gravely of the calm which precedes the storm, and thus to substitute a trite illustration for a reason, it is nevertheless true, that there are natural causes which commonly produce an interval, sometimes, indeed, very short, of more than ordinary quiet between the complete operation of the measures which alienate a people, and the final resolution which precedes a great change. Amidst the hopes and fears which succeed each other in such a state every man has much to conceal of what it requires some time to acquire boldness to disclose. Distrust and suspicion, the parents of silence, which easily yield to sympathy in ordinary and legal opposition, are called into full activity by the first secret consciousness of a disposition to more daring designs. It is natural for men in such circumstances to employ time in watching their opponents, as well as in ascertaining the integrity and courage of their friends. When human nature is stirred by such mighty agents, the understanding, indeed, rarely deliberates; but the conflict and alternation of strong emotions, which assume the appearance and receive the name of deliberation, produce naturally a disposition to a fearful pause before irrevocable action. The boldest must occasionally contemplate their own danger with

apprehension; the most sanguine must often doubt their success; those who are alive to honour must be visited by the sad reflection, that if they be unfortunate they may be insulted by the multitude for whom they sacrifice themselves; and good men will be frequently appalled by the inevitable calamities to which they expose their country for the uncertain chance of deliverance. When the fluctuation of mind has terminated in bold resolution, a farther period of reserve must be employed in preparing the means of co-operation and maturing the plans of action. But there were some circumstances peculiar to the events now under consideration, which strengthened and determined the operation of general causes. In 1640, the gentry and the clergy were devoted to the court, while the higher nobility and the great towns adhered to the parliament. The people distrusted their divided superiors, and the tumultuous display of their force (the natural result of their angry suspicions) served to manifest their own inclinations, while it called forth their friends and intimidated their enemies among the higher orders. In 1688, the state of the country was reversed. The clergy and gentry were for the first time discontented with the crown. The majority of the nobility, and the growing strength of the commercial classes, reinforced by these unusual auxiliaries, and by all who either hated popery or loved liberty, were fully as much disaffected to the King as the great body of the people. The nation trusted their natural leaders, who, perhaps, gave, more than they received, the impulse on this occasion. No popular chiefs were necessary, and none arose to supply the place of their authority with the people, who reposed in quiet and confidence till the signal for action was made. This important circumstance produced another effect. The whole guidance of the opposition fell gradually into fewer and fewer hands; it became every day easier to carry it on more calmly; popular commotion could only have disturbed councils where the people did not suspect their chiefs of lukewarmness, and the chiefs were assured of the prompt and zealous support of the people. It was as important to restrain the impetuosity of the multitude, as it might be necessary in other circumstances to indulge it. Hence arose the facility of caution and secrecy at one time, of energy and speed at another, of concert and co-operation throughout, which are indispensable in enterprises so perilous.

It must not be forgotten that a coalition of parties was necessary on this occasion. It was long before the Tories could be persuaded to oppose the monarch; and there was always some reason to apprehend, that he might by timely concessions recal them to their ancient standard. It was still longer before they could so far relinquish their avowed principles as to contemplate, without horror, any resistance by force, however strictly defensive. Two parties, who had waged war against each other in the contest between monarchy and popular government, during half a century, even when common danger taught them the necessity of sacrificing their differences, had still more than common reason to examine each other's purposes before they at last determined on resolutely and heartily acting together. It required some time after a mutual belief in sincerity, before habitual distrust could be so much subdued as to allow reciprocal communication of opinion. In these moments of hesitation, the friends of liberty must have been peculiarly desirous not to alarm the newborn zeal of their important and unwonted confederates by turbulent scenes or violent councils.

The state of the succession to the crown had also a considerable influence, as will afterwards more fully appear. Suffice it for the present to observe, that the expectation of a Protestant successor restrained the impetuosity of the more impatient Catholics, and disposed the more moderate Protestants to an acquiescence, however sullen, in evils which could only be temporary. The rumour of the Queen's pregnancy had roused the passions of both parties; but as soon as the first shock had passed, the uncertain result produced an armistice, distinguished by the silence of anxious expectation, during which both eagerly but resolutely waited for the event, which might extinguish the hopes of one, and release the other from the restraint of fear.

It must be added, that to fix the precise moment when a wary policy is to be exchanged for bolder measures, is a problem so important, that a slight mistake in the attempt to solve it may be fatal, and yet so difficult, that its solution must generally depend more on a just balance of firmness and caution in the composition of character, than on a superiority of any intellectual faculties. The two eminent persons who were now at the head of the coalition against the Court, afforded remarkable examples of this truth. Lord Nottingham, who occupied that leading

station among the Tories, which the timidity if not treachery of Rochester had left vacant, was a man of firm and constant character, but solicitous to excess for the maintenance of that uniformity of measures and language which, indeed, is essential to the authority of a decorous and grave statesman. Lord Halifax, sufficiently pliant, or perhaps fickle, though the boldest of politicians in speculation, became refined, sceptical, and irresolute, at the moment of action. Both hesitated on the brink of a great enterprise. Lord Nottingham pleaded conscientious scruples, and recoiled from the avowal of the principles of resistance which he had long reprobated. Lord Halifax saw difficulty too clearly, and continued too long to advise delay. Those who knew the state of his mind, observed "the war between his constitution and his judgment;"^a in which, as usual, the former gained the ascendant for a longer period than, in the midst of the rapid progress of great events, was conducive to his reputation.

Some of the same causes which restrained the manifestation of popular discontent, contributed also to render the counsels of the Government inconstant. The main subject of deliberation, regarding the internal affairs of the kingdom, continued to be the possibility of obtaining the objects sought for by a compliant parliament, or of pursuing them by means of the prerogative and the army. On these questions a more than ordinary fluctuation prevailed. Early in September, Bonrepaux, who, on landing, met the King at Portsmouth, was surprised at the frankness with which he owned, that the repairs and enlargements of that important fortress were intended to strengthen it against his subjects.^b At several periods in the course of the year, the King and his most zealous advisers spoke of the like projects with as little reserve. In October it was said, "that if nothing could be done by parliamentary means, the King would do all by his prerogative;" an attempt from which Barillon expected that insurrection would ensue.^c Three months after, the bigoted Romanists, whether more despairing of a parliament or confident in their strength, and incensed at resistance, no longer concealed their contempt of the Protestant part of the royal family, and of the necessity of

^a Johnstone, 4th April, 1688.

^b Bonrepaux à Seignelai, 4th Sept. 1687. Fox MSS. ii.

^c Barillon, 30 Sept. (10 Oct.), 1687. Bonrepaux à Seignelai, same date. Fox MSS. ii.

recurring to arms.^a The same temper showed itself at the eve of the birth of the prince. The King then declared, that, rather than desert, he should pursue his objects without a parliament, in spite of any laws which might stand in his way; a project which Louis XIV., less bigoted and more politic, considered "as equally difficult and dangerous."^b But the sea might as well cease to ebb and flow, as a council to remain for so many months at precisely the same point in regard to such hazardous designs. In the interval between these plans of violence, hopes were sometimes harboured of obtaining from the daring fraud of returning officers, such a House of Commons as could not be hoped for from the suffrages of any electors. The prudence of the Catholic gentry, who were named sheriffs, appears to have speedily disappointed this expectation.^c Neither do the court appear to have even adhered for a considerable time to the bold project of accomplishing their purposes without a parliament. In moments of secret misgiving, when they shrunk from these desperate counsels, they seem frequently to have sought refuge in the flattering hope, that their measures to fill a House of Commons with their adherents, though hitherto so obstinately resisted, would in due time prove successful. The meeting of a parliament was always held out to the public; it was still sometimes regarded as a promising expedient;^d and a considerable time for sounding and moulding the public temper yet remained before the three years after the dissolution, within which the triennial act required that assembly to be called together, would elapse. It seemed needless to cut off all retreat to legal means till that time should expire. The Queen's pregnancy affected these consultations in various modes. The boldest considered it as likely to intimidate their enemies, and to afford the happiest opportunity for immediate action. A parliament might, they said, be assembled, that might either yield to

^a Johnstone, 29th Jan. 1688. Lady Melford overheard the priests speak to her husband of "blood," probably with some reference to foreign war, as well as to the suppression of the disaffected at home. "Sidney vous fera savoir qu'après des grandes contestations on est enfin résolu de faire leurs affaires sans un parlement."

^b Barillon au Roi, 26 Avril (6 Mai), 1688. Le Roi à Barillon, 4 (14) Mai, 1688. "Le projet que fait la cour où vous êtes de renverser toutes les lois d'Angleterre pour parvenir au but qu'elle se propose, me paroît d'une difficile et périlleuse exécution."

^c Johnstone, 8th Dec. 1687. "Many of the popish sheriffs have estates, and declare that whoever expects false returns from them will be deceived."

^d Johnstone, 21st February, 1688.

the general joy at the approaching birth of a prince, or by their sullen and mutinous spirit justify the employment of more decisive measures.^a The more moderate, on the other hand, thought, that if the birth of a prince were followed by more cautious policy, and if the long duration of a Catholic government were secured by the parliamentary establishment of a regency, there was a better chance than before of gaining all important objects in no very long time by the forms of law and without hazard to the public quiet. Penn desired a parliament, as the only mode of establishing toleration without subverting the laws. He laboured to persuade the King to spare the Tests, or to offer an equivalent for such parts of them as he wished to take away.^b Halifax said to a friend, who argued for the equivalent, "Look at my nose, it is a very ugly one, but I would not take one five hundred times better as an equivalent, because my own is fast to my face."^c He made a more serious attack on these dangerous and seductive experiments, in a masterly tract, entitled "The Anatomy of an Equivalent." A tract was published to prepare the way for what was called "a healing parliament," which, in the midst of tolerant professions and conciliatory language, chiefly attracted notice by insult and menace. In this publication, which, being licensed by Lord Sunderland,^d was treated as the act of the Government, the United Provinces were reminded, that "their commonwealth was the result of an absolute rebellion, revolt, and defection, from their prince ;"^e and they were apprised of the respect of the King for the inviolability of their territory, by a menace thrown out to Burnet, that he "might be taken out of their country, and cut up alive in England; in imitation of a supposed example in the reign of Elizabeth :"^f a threat the more alarming, because it was well known that such a project had been long entertained, and that attempts had already been made for its execution. Van Citters complained of this libel in vain. The king expressed wonder and indignation, that a complaint should be made of the publication of an universally acknowledged truth; confounding the fact of resistance with the condemnation pronounced upon it by the opprobrious terms, which naturally imported and were intended to affirm that the resistance was criminal.^g Another

^a Barillon.

^b Johnstone, 12th March, 1688.

^c *Parliamentum Pacificum*, 66 and 68.

^d Barillon, 19th April, 1688.

^e Johnstone, 6th February, 1688.

^f 15th February, 1688.

^g *Parliamentum Pacificum*, 57.

pamphlet, called "A New Test of the Church of England's Loyalty,"^a exposed with scurrility the inconsistency of the Church's recent independence, with her long professions and solemn decrees of non-resistance; with a threat, that "His Majesty would withdraw his royal protection, which was promised upon the account of her constant fidelity." Such menaces were very serious, at a moment when D'Albyville, James's minister at the Hague, told the Prince of Orange, that "upon some occasions princes must forget their promises; and being "reminded by William, that the King ought to have more regard to the Church of England, which was the main body of the nation," answered, "that the body called the Church of England would not have a being in two years."^b

The great charter of conscience was now drawn up, in the form of a bill, and prepared to be laid before parliament. It was entitled "An Act for granting of Liberty of Conscience, without imposing of Oaths and Tests." The preamble thanks the King for the exercise of his dispensing power, and recognises it as legally warranting his subjects to enjoy their religion and their offices during his reign; but, in order to perpetuate his pious and Christian bounty to his people, the bill proceeds to enact, that all persons professing Christ may assemble publicly or privately, without any licence, for the exercise of their religious worship; that all laws to the contrary against nonconformity and recusancy, exacting oaths, or declarations, or tests, or imposing disabilities or penalties of religion, shall be repealed; and more especially in order "that his Majesty may not be debarred of the service of his subjects, which by the law of nature is inseparably annexed to his person, over which no act of parliament can have any control, any further than he is pleased to allow of the same;"^c it takes away the oaths of allegiance and supremacy, and the tests and declarations required by the twenty-fifth and thirtieth of the late king, as qualifications to hold office, or to sit in both houses of parlia-

^a Scott's Somers's Tracts, ix. 195.

^b Burnet, iii. 207. (Oxford edit. 1823.)

^c This language seems to have been intentionally equivocal. The words "allow of the same," may in themselves mean till he gives his royal assent to the Act. But in this construction the paragraph would be an unmeaning boast, since no bill can become an act of parliament till it receives the royal assent; and, secondly, it would be inconsistent with the previous recognition of the legality of the King's exercise of the dispensing power; Charles II. having given his assent to the acts dispensed with. It must therefore be understood to declare, that acts of parliament disabling individuals from serving the public, restrain the King only till he dispenses with them.

ment. It was, moreover, provided, that meetings for religious worship should be open and peaceable; that notice of the place of assembly should be given to a justice of the peace; that no seditious sermons should be preached in them; and that in cathedral and collegiate churches, parish churches, and chapels, no persons shall officiate but such as are duly authorised according to the Act of Uniformity,^a and no worship be used but what is conformable to the Book of Common Prayer therein established, for the observance of which provision,—the only concession made by the bill to the fears of the Establishment,—it was further enacted, that the penalties of the Act of Uniformity should be maintained against the contravention of that statute in the above respects. Had this bill passed into a law, and had such a law been permanently and honestly executed, Great Britain would have enjoyed the blessings of religious liberty in a degree unimagined by the statesmen of that age, and far surpassing all that she has herself gained in a century and a half of the subsequent progress of almost all Europe towards tolerant principles. But such projects were examined by the nation with a view to the intention of their authors, and to the tendency of their provisions in the actual circumstances of the time and country. The practical question was, whether the intention and tendency were not to relieve the minority from intolerance, but to lessen the security of the great majority against it. The speciousness of its language, and the liberality of its enactments, in which it rivalled the boldest speculations at that time hazarded by philosophers, were so contrary to the opinions, and so far beyond the sympathy, of the multitude, that none of the great divisions of Christians could heartily adopt them, or could prudently trust each other's sincerity in holding them forth. They were regarded not as a boon, but as a snare. From the ally of Louis XIV., three years after the persecution of the Protestants, they had the appearance of an insulting mockery; though it was not then known that James had during his whole reign secretly congratulated that monarch on his barbarous measures. The general distrust of his designs arose from many circumstances, separately too small to reach posterity; but, taken together, sufficient to entitle near observers to form an estimate of his character. When he visited Amsterdam, about 1679, he declared to the magistrates

^a 14 Ch. II.

of that liberal and tolerant city, that he “never was for oppressing tender consciences.”^a The sincerity of his tolerant professions was soon after tried when he held a parliament as lord high commissioner at Edinburgh, in 1681. He gave the first proof of it by exhorting that assembly to suppress the conventicles, or, in other words, the religious worship of the majority of the Scottish people.^b It being difficult for the fiercest zealots to devise any new mode of persecution which the parliament had not already tried, he was content to give the royal assent to an act confirmatory of all those edicts of blood already in force against the proscribed Presbyterians.^c But very shortly after, when the Earl of Argyle, acting evidently from the mere dictates of conscience, added a modest and reasonable explanation to an oath required from him, which without it would have been contradictory, the lord commissioner caused that nobleman to be prosecuted for high treason, and condemned to death on account of his conscientious scruples.^d To complete the evidence of his tolerant spirit, it is only necessary to quote one passage which he himself has fortunately preserved. He assures us that, in his confidential communication with his brother, he represented it as an act of “imprudence to have proposed in parliament the repeal of the thirty-fifth of Elizabeth,”^e a statute almost as sanguinary as those acts of the parliament of Scotland, which he exhorted them to sharpen, and sanctioned by a general ratification. The folly of believing his assurances of equal toleration was at the time evinced by an appeal to those solemn declarations of a resolution to maintain the edict of Nantz, with which Louis XIV. had accompanied every one of the encroachments on it, which opened the way for its revocation. Where a belief prevailed that a law was passed without an intention to observe it, all scrutiny of its specific provisions became needless; yet it ought to be remarked, that though it might be fair to indemnify those who acted under the dispensing power, the recognition of its legality was at least a wanton insult to the Constitution, and appeared to betray

^a Account of James II.'s visit to Amsterdam, by William Carr, then English consul (said by mistake to be in 1681). *Gentleman's Magazine*, vol. lix. part 2. p. 659.

^b *Life of James II.*, i. 694. The words of his speech are copied from his own MS. memoirs.

^c *Acts of the Parliaments of Scotland*, viii. 242.

^d *State Trials*, viii. 843. Woodrow, i. 205. 217.; a narrative full of interest, and obviously written with a careful regard to truth. Laing iv., where the moral feelings of that upright and sagacious historian are conspicuous.

^e *Life of James II.*, ii. 656., verbatim from the King's memoirs.

a wish to reserve that power for further and more fatal measures. The dispensation granted before to the incumbent of Battersea showed the facility with which such a prerogative might be employed to elude the whole proviso of the proposed bill in favour of the King's promises to protect the endowments of the Protestant clergy. Instead of comprehending, as all wise laws should do, the means of its own execution, it would have facilitated the breach of its own most important enactments. If it had been adopted by the next parliament, another still more compliant would have found it easier, instead of more difficult, to establish the Catholic religion, and abolish toleration. This essential defect was confessed rather than obviated by the impracticable remedies, for it is recommended in a tract, entitled "A new Test,"^a which, for the security of the great charter of religious liberty about to be passed, proposed that every man in the kingdom shall, on obtaining the age of twenty-one, swear to observe it, that no peer or commoner should take his seat in either house of parliament till he had taken the like oath; and that all sheriffs, or others, making false returns, peers or commoners, presuming to sit in either house without taking the oath, or who shall move or mention any thing in or out of parliament that may tend to the violating or altering the liberty of conscience, shall be hanged on a gallows made out of the timber of his own house, which was for that purpose to be demolished.^b It seems not to have occurred to this writer that the parliament whom he thus proposes to restrain, would begin their operations by repealing his penal laws.

Notwithstanding the preparations made for a parliament, it was not believed, by the most discerning and well-informed, that any determination was yet adopted on the subject. Lord Nottingham early thought that, in case of a general election, "few dissenters would be chosen, and that such as were, would not, *in present circumstances*, concur in the repeal of so much as the penal laws, because to do it might encourage the Papists to greater attempts,"^c Lord Halifax, at a later period, observes, that the moderate Catholics acted reluctantly; that the Court, finding their expectations not

^a "A New Test instead of the Old One. By G. S." Licensed 24th March, 1688.

^b The precedent alleged for this provision is the decree of Darius, for rebuilding the temple of Jerusalem:—"And I have made a decree that whoever shall alter this word, let timber be pulled down from his house, and being set up, let him be hanged thereon." Ezra vi. 11.

^c Lord Nottingham to Prince of Orange, 2d Sept. 1687. App. Dalrymple, book 5.

answered by the Dissenters, they had thoughts of returning to their old friends the High Churchmen; that he thought a meeting of Parliament impracticable, and continued as much an unbeliever for October, as he had before been for April.^a In private he mentioned, as one of the reasons of his opinion, that some of the courtiers had declined to take up a bet for five hundred pounds, which he had offered, that the Parliament would not meet in October; and that, though they liked him very little, they liked his money as well as any other man's.^b

The perplexities and variations of the Court were multiplied by the subtle and crooked policy of Sunderland, who, though willing to purchase his continuance in office by unbounded compliance, was yet extremely solicitous, by a succession of various projects and reasonings adapted to the circumstances of each moment, to divert the mind of James as long as possible from a Parliament, or a foreign war; from acts of unusual severity or needless insult to the Constitution; from any of those bold or even decisive measures, of which no man could foresee the consequences to his own power, or to the throne of his sovereign. He had gained every object of ambition: he could only lose by change, and instead of betraying James by violent counsels, he appears to have better consulted his own interest, by offering as prudent advice to that monarch as he could venture without the risk of incurring the royal displeasure. He might lose his greatness by hazarding too good counsel, and he must lose it if his master were ruined. Thus placed between two precipices, and winding his course between them, he could find safety only by sometimes approaching to one, and sometimes going nearer to the other. Another circumstance contributed to augment the seeming inconsistencies of the minister. He was sometimes tempted to deviate from his own path by the pecuniary gratifications which, after the example of Charles and James, he clandestinely received from France; an infamous practice, in that age very prevalent among European statesmen, and regarded by many of them as little more than the receipt of the perquisites of office.^c It will appear in the sequel that, like his master, he received French money only for doing what he otherwise desired to do, and that it

^a Lord Halifax to P. of Orange, 12th April, 1688. Ibid.

^b Johnstone, 27th February, 1688.

^c D'Avaux *passim*. Lettres de De Witt, iv., containing the letters of De Groot (the son of Grotius) from Sweden. Ellis, History of the Iron Masque for Italian Princes.

rather induced him to quicken or retard, to enlarge or contract, than substantially to alter his measures. But though he was too prudent to hazard the power which produced all this emolument for a single gratuity, yet this dangerous practice must have multiplied the windings of his course. From these deviations in opposite directions, in some measure arose the fluctuating counsels and varying language of the Government of which he was the chief. The division of the Court into parties, and the variety of tempers and opinions by which he was surrounded, added new difficulties to the game which he played. It was more simple at first; when he coalesced with the Queen and the whole Catholic party, at that time united, and professing moderation as his sole defence against Rochester, the leader of the Protestant Tories. But after the defeat of that party, and the dismissal of their chief, divisions began to show themselves among the victorious Catholics, which gradually widened as the moment of decisive action seemed to approach. It was then^a that he made an effort to strengthen himself by the revival of the office of lord treasurer in his person; a project in which he endeavoured to engage Father Petre by proposing that Jesuit to be his successor as secretary of state; and in which he obtained the co-operation of Sir Nicholas Butler, a new convert, by suggesting that he should be Chancellor of the Exchequer. The King, however, adhered to his determination that the treasury should be in commission notwithstanding the advice of Butler, and the Queen declined to interfere in a matter where her husband appeared to be resolute. It should seem, from the account of this intrigue by James, that Petre neither discouraged Sunderland in his plan, nor supported it by the exercise of his own ascendancy over the mind of the King. In the spring of 1688, they formed three separate and unfriendly parties, whose favour it was not easy for a minister to preserve at the same time. The Catholic nobility and gentry of England continued to the last adverse to those rash courses which honour obliged them apparently to support, but which they had always dreaded as dangerous to their sovereign and their religion. Lord Powis, Lord Bellasis, and Lord Arundel, vainly laboured to inculcate their wise maxims on the mind of

^a "A little before Christmas." Life of James II. ii. 131, 132; passages quoted from King James's Memoirs, t. 9. p. 213. The King's own memoirs are always deserving of great consideration, and in unmixed cases of fact are, I am willing to hope, generally conclusive. The additions of (Mr. Dicconson) the anonymous compiler are often very inaccurate.

James. The remains of the Spanish influence, formerly so powerful among the British Catholics, were employed by the ambassador, Don Pedro Ronquillo, in support of this respectable party. Sunderland, though he began, early after his victory over Rochester, to moderate and temper the royal measures, was afraid of displeasing his impatient master by openly supporting them. The second party, which may be called the Papal, was that of the nuncio, who, in the beginning, considered the Catholic aristocracy as too lukewarm in the cause of religion; but though he continued outwardly to countenance all domestic efforts for the advancement of the faith, became at length more hostile to the connexion of James with France, than zealous for the speedy accomplishment of that Prince's ecclesiastical policy in England. To him the Queen seems to have adhered, both from devotion to Rome, and from that habitual apprehension of the displeasure of the House of Austria which an Italian princess naturally entertained towards the masters of Lombardy and Naples.^a When hostility towards Holland was more openly avowed, and when Louis XIV., no longer content with acquiescence, began to require from England the aid of armaments and threats, if not co-operation in war, Sunderland and the nuncio became more closely united, and both drew nearer to the moderate Catholics. The third division of the Catholics, known by the name of the French or Jesuit party, supported by Ireland and the clergy, and possessing the personal favour and confidence of the King, considered all delay in the advancement of their religion as dangerous, and were devoted to France as the only ally able and willing to ensure the success of their designs. Emboldened by the pregnancy of the Queen, and by so signal a mark of favour as the introduction of Father Petre into the council,—an act of folly which the moderate Catholics would have resisted, if the secret had not been kept from them till the appointment,^b—they became impatient of Sunderland's evasion and procrastination, especially of his disinclination to hostile demonstrations against Holland, which their agent, Skelton, the British minister at Paris, represented to the French Government, as “a secret opposition to all measures against

^a Le Roi à Barillon, 23 May (2 Juin), 1688. Louis heard of this partiality from his ministers at Madrid and Vienna, and desires Barillon to insinuate to her that neither she nor her husband has any thing to hope from Spain.

^b Bar. au Roi, Fox MSS. Bonrepaux, *ibid.* The account of Petre's advancement by Dod, the church historian of the Catholics, is a specimen of the opinion entertained by the secular clergy of the regulars, but especially of the Jesuits.

the interest of the Prince of Orange ;"^a and though Barillon acquits the minister of such treachery,^b it should seem that, from that moment, he ceased to enjoy the full confidence of the French party. In the beginning of 1688, he prevailed with difficulty on the majority of the council to postpone a Parliament till they should be strengthened by the recall of the English troops from the Dutch service.^c Two months after, it was proposed to call a Parliament before the delivery of the Queen, in which they would have the advantage of the expectation of a Prince of Wales. The King and the majority of the council declared for this measure ; but Sunderland, conformably to his policy of delaying decisive, and, perhaps, irretrievable steps, resisted it at last with success, on the ground that matters were not ripe, that it required much longer time to prepare the corporation, and that, if the Nonconformists in the Parliament should prove mutinous, an opposition so national would render the employment of any other means more hazardous.^d In March, Lord Shrewsbury communicated the disunion to the Prince of Orange.^e Sunderland owed his support to the Queen, who, together with the nuncio, protected him from the attack of Father Petre, who, after a considerable period of increasing estrangement, now declared against him with violence.^f In the meantime the French Government, which had hitherto affected impartiality in the divisions of the British Catholics, made advances to Petre as he receded from Sunderland. In January, he declared in council, that the King ought to be solicitous only for the friendship of France.^g The King desired Barillon to convey the assurances of his high esteem for the Jesuit,^h who replied with becoming gratitude ; and the ambassador undertook to consider of some more efficacious proof of respect to him, agreeably to the King's commands.ⁱ Henceforward the power of Sunderland was seen to totter. It was thought that he himself even saw that he

^a Le Roi à Barillon, 1 (11) Dec. 1687.

^b Barillon au Roi, 26 Dec. 1687 (5 Jan. 1688).

^c Id. *ibid.* Johnst. Jan. 6 (16) 1688. "Sidney believes that Sunderland has prevailed, after a great struggle, to dissuade the council from a war or a parliament."

^d D'Adda, 2 (12) Mar. 1688. Barill. in Mas. ii. 399. "Il y avait beaucoup d'intrigues et de cabales de Cour sur cela dirigées contre my Lord Sunderland. La reine le soutient, et il a emporté."

^e Shrewsbury to the Prince of Orange, 14th Mar. 1688. Dal. App. bk. v. vi.

^f Van Citters, 30 March (9 April), 1688.

^g Barillon au Roi, 23 Jan. (2 Feb.), 1688.

^h Le Roi à Barill. 9 (19) March, 1688.

ⁱ Barill. au Roi, 19 (29) March, 1688.

could not stand long, even by the friendship of the Queen, since the French ambassador began to trim between him and Petre, and the whole French party leant against him.^a Petre, through whom he formerly had a hold on the Jesuitical party, became now a formidable rival for power, and was believed to be so infatuated by ambition as to pursue the dignity of cardinal, that he might more easily become prime minister of England.^b At a later period, Barclay, the celebrated Quaker, boasted of having reconciled Sunderland to Melfort, which, he trusted, would be the ruin of Petre;^c and Sunderland told the nuncio that he considered it as the first principle of the King's policy to frame all his measures with a view to their reception by Parliament;^d a strong proof of aversion to extreme measures, to which it will be presently seen that he adhered in the discussion of the important proceedings then under consideration. A fitter opportunity will present itself hereafter for relating the circumstances in which he demanded a secret gratuity from France, in addition to his pension from that Court of 60,000 livres yearly (2500*l.*); of the skill with which Barillon beat down his demands, and made a bargain less expensive to his Government; and of the address with which Sunderland claimed the bribe for measures on which he had before determined, so that he might seem rather to have obtained it under false pretences, than to have been diverted by it from his own policy. It is impossible to trace clearly the serpentine course of an intriguing minister, whose opinions were at variance with his language, and whose craving passions often led him astray from his interest. But an attempt to discover it is necessary to the illustration of the government of James. In general, it seems to be clear that, from the beginning of 1687, he struggled in secret to moderate the measures of the Government; and that in the spring of 1688, when he carried that system to the utmost, the decay of his power became apparent. As Halifax had lost his office by liberal principles, and Sunderland had outbidden Rochester for the King's favour, so Sunderland himself was now on the eve of being overthrown by the influence of Petre, at a time when no successor of specious pretensions presented himself. He seems to have made one attempt to recover

^a Johnstone, 12th March and 2d April, 1688.

^b Lettre au Roi, 1 Août, 1687, in the Dépôt des Affaires Etrangères at Paris, not signed, but probably from Bonrepaux.

^c Clar. Diary, 23d June, 1688.

^d D'Adda, 25 May (4 June), 1668.

strength, by remodelling the Cabinet Council. For a considerable time the Catholic counsellors had been summoned separately, together with Sunderland himself, on all confidential affairs; while the more ordinary business only was discussed in the presence of the Protestants: thus forming two cabinets; one ostensible, the other secret. He now proposed to form them into one, in order to remove the jealousy of the Protestant counsellors, and to encourage them to promote his Majesty's designs. To this united cabinet the affairs of Scotland and Ireland were to be committed, which had been separately administered before with manifest disadvantage to uniformity and good order. Foreign affairs, and others requiring the greatest secrecy, were still to be reserved to a smaller number. The public pretences for this change were specious; but the object was to curb the power of Petré, who now ruled without control in a secret cabal of his own communion and selection.^a

The party which had now the undisputed ascendant was denominated Jesuits, as a term of reproach, by the enemies of that famous society in the Church of Rome, as well as among the Protestant communions. A short account of their origin and character may facilitate a faint conception of the admiration, jealousy, fear, and hatred, the profound submission or fierce resistance, which that formidable name once inspired. Their institution originated in pure zeal for religion, glowing in the breast of Loyola, a Spanish soldier; a man full of imagination and sensibility, in a country where wars, rather civil than foreign, waged against unbelievers for ages, had rendered a passion for spreading the Catholic faith a national point of honour, and blended it with the pursuit of glory as well as with the memory of past renown. The legislative forethought of his successors gave form and order to the product of enthusiasm, and bestowed laws and institutions on their society which were admirably fitted to its various ends.^b

^a D'Adda. 13 (23) April, 1688.

^b Larner and Aquaviva. Originally consisting of seven men: it possessed, at the end of the sixteenth century, 1500 colleges, and contained 22,000 avowed members. Parts of their constitution were allowed * to be kept and to be altered, without the privity of the Pope himself. The simple institution of lay brethren, who, in orders, were the servants of the community, being in the hands of the Jesuits, combined with the privilege of secrecy, afforded the means of enlisting in their society powerful individuals, among whom Louis XIV. and James II. are generally numbered.

* By Paul III. Mull. Alg. Book xix. c. 4.

Having arisen in the age of the Reformation, they naturally became the champions of the Church against her new enemies. Being established in the period of the revival of letters, instead of following the example of the unlettered monks, who decried knowledge as the mother of heresy, they joined in the general movement of mankind; they cultivated polite literature with splendid success; they were the earliest and, perhaps, most extensive reformers of European education, which, in their schools, made a larger stride than it has at any succeeding moment;^a and, by the just reputation of their learning, as well as by the weapons with which it armed them, they were enabled to carry on a vigorous contest against the most learned impugners of the authority of the Church. Peculiarly subjected to the see of Rome by their constitution, they became ardently devoted to its highest pretensions, in order to maintain a monarchical power, of which they felt the necessity for concert, discipline, and energy in their theological warfare.

While the nations of the Spanish peninsula hastened with barbaric chivalry to spread religion by the sword in the newly explored regions of the East and the West, the Jesuits alone, the great missionaries of that age, either repaired or atoned for the evils caused by the misguided zeal of their countrymen. In India, they suffered martyrdom with heroic constancy.^b They penetrated through the barrier which Chinese policy opposed to the entrance of strangers; they cultivated the most difficult of languages with such success as to compose hundreds of volumes in it; and, by the public utility of their scientific acquirements, they obtained toleration, patronage, and personal honours, from that jealous government: and the natives of America, who generally felt the superiority of the European race only in a more rapid or a more gradual destruction, and to whom even the excellent Quakers dealt out little

^a "For education," says Bacon, within fifty years of the institution of the order, "consult the schools of the Jesuits. Nothing hitherto tried in practice surpasses them." *De Augment. Scient. lib. v. c. 4.*

"Education—that excellent part of ancient discipline, has been, in some sorts, revived of late times in the colleges of the Jesuits, of whom, in regard of this and of some other points of human learning and moral matters, I may say, *Talis cum sis utinam noster esses.*" *Advancement of Learning*, book i.

Such is the disinterested testimony of the wisest of men to the merit of the Jesuits, to the unspeakable importance of reforming education, and to the infatuation of those who, in civilized nations, attempt to resist new opinions by mere power, without calling in aid such a show of reason, if not the whole substance of reason, as cannot be maintained without a part of the substance.

^b *Lettres Edifiantes et Curieuses*.

more than penurious justice, were, under the paternal rule of the Jesuits, reclaimed from savage manners, and instructed in the arts and duties of civil life. At the opposite point of society they were fitted by their release from conventual life, and their allowed intercourse with the world, for the perilous office of secretly guiding the conscience of princes. They maintain the highest station as a religious body in the literature of Catholic countries. No other association ever sent forth so many disciples who reached such eminence in departments so various and unlike. While some of their number ruled the royal penitents at Versailles or the Escorial, others were teaching the use of the spade and the shuttle to the naked savages of Paraguay; a third body daily endangered their lives in an attempt to convert the Hindoos to Christianity; a fourth carried on the controversy against the Reformers; a portion were at liberty to cultivate polite literature, and the greater part continued to be employed either in carrying on the education of Catholic Europe, of which they were the first improvers, or in the government of their society, in ascertaining the ability and disposition of the junior members, so that well-qualified men might be selected for the extraordinary variety of offices in their immense commonwealth. The most famous constitutionalists, the most skilful casuists, the ablest schoolmasters, the most celebrated professors, the best teachers of the humblest mechanical arts, the missionaries who could most bravely encounter martyrdom, or who with most patient skill could infuse the rudiments of religion into the minds of ignorant tribes or prejudiced nations, were the growth of their fertile schools. The prosperous administration of such a society for two centuries, is probably the strongest proof afforded from authentic history that an artificially-formed system of government and education is capable, under some circumstances, of accomplishing greater things than the general experience of it would warrant us in expecting from it. Even here, however, the materials were supplied, and the first impulse given by enthusiasm; and in this memorable instance the defects of such a system are discoverable. The whole ability of the members being constantly exclusively and intensely directed to the various purposes of the order, the mind of the Jesuits had not the leisure or liberty necessary for works of genius, or even for discoveries in science, to say nothing of original speculations in philosophy, which are interdicted by implicit faith. That great society, which covered the world for two hundred years,

has no names which can be opposed to those of Pascal and Racine, produced by the single community of Port Royal, which was in a state of persecution during the greater part of its short existence. But this remarkable peculiarity amounts perhaps to little more than that they were more eminent in active than in contemplative life. A far more serious objection is the manifest tendency of such a system, while it produces the precise excellences aimed at by its mode of cultivation, to raise up all the neighbouring evils with a certainty and abundance, a size and malignity unknown to the freer growth of nature. The mind is narrowed by the constant concentration of the understanding; those who are habitually intent on one object learn at last to pursue it at the expense of others equally or more important. The Jesuits, the reformers of education, sought to engross it, as well as to stop it at their own point. Placed in the front of the battle against the Protestants, they caught a more than ordinary portion of that theological hatred against their opponents which so naturally springs up where the greatness of the community, the fame of the controversialist, and the salvation of mankind seem to be at stake. Affecting more independence in their missions than other religious orders, they were the formidable enemies of episcopal jurisdiction, and thus armed against themselves the secular clergy, especially in Great Britain, where they were the chief missionaries. Entrusted with the irresponsible guidance of kings, they were too often betrayed into a compliant morality; excused probably to themselves, by the great public benefits which they might thus obtain by the numerous temptations which seemed to palliate royal vices, and by the real difficulties of determining, in many instances, whether there was more danger of deterring such persons from virtue by unreasonable austerity, or of alluring them into vice by unbecoming relaxation. This difficulty is indeed so great, that casuistry has, in general, vibrated between these extremes, rather than rested near the centre. To exalt the papal power they revived the scholastic doctrine^a of the popular origin of government, that rulers might be subject to the people, while the people themselves, on all questions so difficult as those which

^a Mariana de Rege et Regis Institutione (sive, mutato titulo, Interfectione), as his enemies suggested. It is true that Mariana only contends for the right of the people to depose sovereigns, without building the authority of the Pope on that principle, as the schoolmen have expressly done; but his manifest approbation of the assassination of Henry III. by Clement, a fanatical partizan of the league, sufficiently discloses his purpose.

relate to the limits of obedience, were to listen with reverential submission to the judgment of the sovereign Pontiff, the common pastor of sovereigns and subjects, the unerring oracle of humble Christians in all cases of perplexed conscience.^a The ancient practice of excommunication, which, in its original principle, was no more than the expulsion from a community of an individual who did not observe its rules, being stretched so far as to interdict intercourse with offenders, and, by consequence, to suspend duty towards them, became, in the middle age, the means of absolving nations from obedience to excommunicated sovereigns.^b Under these specious colours both Popes and councils had been guilty of alarming encroachments on the civil authority. The church had indeed never solemnly adopted the principle of these usurpations into her rule of faith or of life, though many famous doctors gave them a dangerous continuance. She had not condemned or even disavowed those equally celebrated divines who resisted them, and though the Court of Rome undoubtedly patronised opinions so favourable to its power, the Catholic church, which had never pronounced a collective judgment on them, was still at liberty to disclaim them, without abandoning her haughty claim of exemption from fundamental error.^c On the Jesuits, as the most staunch of the polemics^d who struggled to exalt the church above the state, and who ascribed to the Supreme Pontiff an absolute power over the church, the odium of these doctrines principally fell. Among reformed nations, and especially in Great Britain, the greatest of them, the whole order was regarded as incendiaries perpetually plotting the overthrow of Protestant Governments, and as immoral sophists who employed their subtle casuistry to silence the remains of conscience in tyrants of their own persuasion. Nor was the detestation of Protestants rewarded by general popularity in Catholic countries. All other regulars envied their greatness; the universities dreaded their ac-

^a La Mennais, *La Religion considérée dans ses rapports avec l'Ordre politique*. Paris, 1826.

^b Fleury, *Discours sur l'Histoire Ecclésiastique*; "On doit éviter les excommuniés, n'avoir aucun commerce avec eux. Donc un Prince excommunié doit être évité de tout le monde. Il n'est plus permis de recevoir ses ordres." Disc. iii. s. 18.

^c "Il est vrai que Gregoire VII. n'a jamais fait aucune décision sur ce point. Dieu ne l'a pas permis." Id. *ibid.* It is evident that if such a determination had, in Fleury's opinion, subsequently been pronounced by the church, the last words of this passage would have been unreasonable.

^d Bayle, in the article *Bellarmino*, who is said by that unsuspected judge to have had the best pen for controversy of any man of that age.

quiring a monopoly of education. Monarchs, the most zealously Catholic, though they often favoured individual Jesuits, often also looked with fear and hatred on a society who would reduce them to the condition of vassals of the priesthood: and in France, the magistrates, who preserved their integrity and dignity in the midst of general servility, maintained a more constant conflict with these formidable adversaires of the independence of the state and the church. The kings of Spain and Portugal envied their well-earned authority, in the missions of Paraguay and California, over districts which they had conquered from the wilderness. The impenetrable mystery in which a part of their constitution was enveloped, though it strengthened their association, and secured the obedience of its members, was an irresistible temptation to abuse power, and justified the apprehensions of temporal sovereigns, while it opened an unbounded scope for heinous accusations. Even in the eighteenth century, when many of their peculiarities had become faint, and they were perhaps little more than the most accomplished, opulent, and powerful of religious orders, they were charged^a with spreading secret confraternities over France. Their greatness became early so invidious as to be an obstacle to the advancement of their members; and it was generally believed that if Bellarmine had belonged to any other than the most powerful order in Christendom, he would have been raised to the chair of Peter.^b The Court of Rome itself, for whom they had sacrificed all, dreaded auxiliaries who were so potent that they might easily become masters. These champions of the Papal monarchy were regarded with jealousy by Popes whose policy they aspired to dictate or control. Temporary circumstances at this time created a more than ordinary alienation between the Jesuits and the Roman Court. They, in their original character of a force raised for the defence of the church against the Lutherans, always devoted themselves to the temporal sovereign who was at the head of the Catholic party; they were attached to Philip II., at the time when Sextus V. dreaded his success; and they now placed their hopes on Louis XIV., in spite of his patronage, for a time, of the independent maxims of the Gallican church.^c On the other hand, Odeschalchi,

^a Montlosier, *Mémoire à Consulter*, 20. 22. Paris, 1826; quoted only to prove that such accusations were made.

^b Bayle in Bellarmine.

^c Bayle, *Nouvelles de la République des Lettres*, April, 1686. "Anjourd'hui plus attachés à la France qu'à l'Espagne." *Ib.* Nov. 1686; and they are charged with giving secret intelligence to Louis XIV. of the state of the Spanish Nether-

who governed the church under the name of Innocent XI., feared the growing power of France, resented the independence of the Gallican church, and was, to the last degree, exasperated by the insults offered to him in his capital by the command of Louis. He was born in the Spanish province of Lombardy, and, as an Italian sovereign, he could not be indifferent to the bombardment of Genoa, and to the humiliation of that respectable republic, by requiring a public submission from the Doge at Versailles. As soon then as James became the pensioner and creature of Louis, the resentments of Odeschalchi prevailed over his zeal for the extension of the church.

The Jesuits had treated himself and those of his predecessors who hesitated between them and their opponents with offensive liberty.^a While they bore sway at Versailles and St. James's, they were, on that account, less obnoxious to the Roman court. Men of wit remarked at Paris, that things would never go well till the Pope became a Catholic, and King James a Huguenot.^b Such were the intricate and dark combinations of opinions, passions, and interests which placed the nuncio in opposition to the most potent order of the church, and completed the alienation of the British nation from James, by bringing on the party which now ruled his councils the odious and terrible name of Jesuits.

lands. The French Jesuits suspended for a year the execution of the Pope's order to remove Father Maimbourg from their society, in consequence of a direction from the King.

^a Bayle, *Nouv.*, Oct. and Nov. 1686.

^b " Et tout le parti Protestant,
Du Saint Père en vain très content,
Le chevalier de Sillery,
En parlant de ce Pape ci,
Souhaitait pour la paix publique,
Qu'il se fut rendu catholique,
Et le roi Jacque Huguenot,"

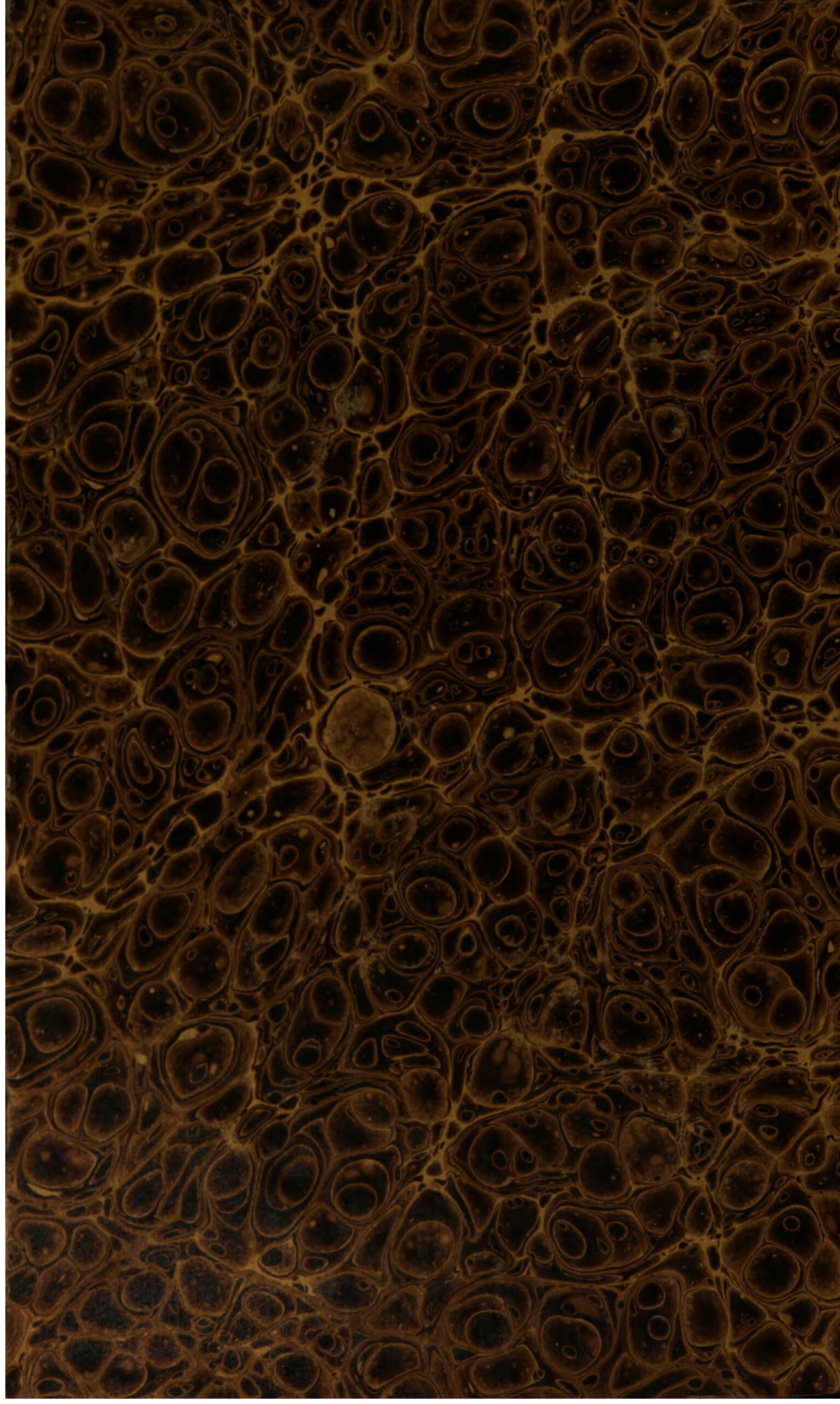
LA FONTAINE.

Racine expresses the same sentiments in a milder form :—

" Et l'enfer couvrant tout de ses vapeurs funèbres,
Sur les yeux les plus saints a jetté les ténèbres."

PROLOGUE D'ESTHER.

END OF THE FIRST VOLUME.



Mackintosh, James,

History of the Revolution in England in 1688 comprising a view of the
reign of James II. from his accession, to the enterprise of the Prince of
Orange
Bd.: 1

Paris 1834

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